Introduction

In the 109th Congress, the Education & the Workforce Committee has focused on an ambitious agenda aimed at enhancing security, freedom, and prosperity for American families in a changing economy. The issues addressed by the Committee this year are those that touch the daily lives of every American, from preschool to retirement. From expanding college access for low- and middle-income students to reforming outdated pension laws to protect taxpayers and workers, the Committee has worked with Republicans and Democrats, as well as the Bush Administration, to address issues critical for the future of the nation.

Just as important, the Committee has focused on examining very closely how taxpayers' money is spent. Congress has a responsibility to ensure that taxpayers' money is spent wisely and to cut wasteful spending on programs that have outlived their usefulness or failed to fulfill their promise. Indeed, out-of-control federal spending is a threat to all Americans, from students and families to workers and retirees.

In early 2005, the House and Senate reached a budget agreement to help curb the runaway cost of government. Making fiscal discipline a top priority has taken on an even greater importance this year because of the devastation caused by Hurricanes Katrina and Rita in the Gulf Coast. Congress should cut federal spending to help offset the ongoing hurricane recovery and rebuilding effort, and the Committee has worked to help put forward a responsible budget that demonstrates Congress's resolve to stop out-of-control spending.

As part of that effort, Education & the Workforce Committee Chairman John Boehner (R-OH), along with other Committee Republicans, on October 7 introduced the *Setting Priorities in Spending Act* (H.R. 4018) to repeal and eliminate 14 federal programs that have proven inefficient, duplicative, or simply unnecessary – an important first step in this process. These programs cost taxpayers approximately $247 million last year alone.

The bill supports the efforts of House Republicans and appropriators to cut discretionary spending as part of the Labor/HHS/Education appropriations bill. The House passed its version of the appropriations bill on June 10, 2005, and it eliminated funding for each of the 14 programs targeted for repeal in the *Setting Priorities in Spending Act*.

Despite their dubious merits, Congress has continued to fund these programs year after year, and it's time to eliminate them once and for all. Too many other federal programs are funded year after year regardless of whether they're fulfilling their purpose. President Bush was right when he said Congress should cut spending to help pay for hurricane relief, and the House and Senate must show their resolve and make the difficult choices that are in the best interest of not just Gulf Coast residents, but the American taxpayers as well.

As part of the budget process, the Education & the Workforce Committee has been tasked with finding $18.1 billion in savings from the mandatory spending programs within the Committee's jurisdiction. Chairman Boehner has consistently said the Committee intends to be part of the solution, not part of the problem, and that it would act to help put forward a responsible budget that cuts wasteful spending and makes federal programs more efficient and effective.

As part of the reconciliation process, the Education & the Workforce Committee has developed proposals on both higher education and on pensions that will generate savings to the federal government and provide the Pension Benefit Guaranty Corporation with additional resources. Both of these proposals will make federal programs more efficient and more effective on behalf of students, families, workers, retirees, and American taxpayers.

Reforming and Strengthening the Higher Education Act

Since 1965, the federal government has invested hundreds of billions of dollars in higher education on the premise that all students, regardless of financial circumstance, should have the opportunity to pursue postsecondary education. Four decades later, taxpayers are spending more than ever before on higher education, yet the goal of higher education access remains elusive to far too many American students.

There is no question that an investment in higher education pays dividends for the future. An educated workforce drives economic growth. Scientific breakthroughs keep America on the cutting edge of technological advancement. Children whose parents are college educated are more likely to pursue postsecondary education themselves, continuing the cycle of success and prosperity. Yet despite the clear imperative for an effective and efficient investment in higher education, billions of taxpayer dollars are being wasted through inefficiency and unwise public policy.

After more than a decade of tuition increases that have far outpaced the rate of inflation and growth in family incomes, it has become clear that blindly increasing federal student aid is doing nothing to solve the challenge of skyrocketing college costs. Indeed, the vast increases in federal student aid have coincided with these tuition increases, calling into question whether the current federal investments in higher education may actually be a contributing factor to the college cost explosion that is squeezing the budgets of hard working low- and middle-income American families.

Taxpayers are carrying a tremendous higher education cost burden on many fronts. In addition to the more than $70 billion in direct student aid paid for by taxpayers in FY 2005, American families are subsidizing aid to institutions, research, and numerous federal programs outside the Higher Education Act that award funding to colleges and universities. Moreover, higher education consumes a significant portion of the taxes paid at the state level, and even after all of this, families with children enrolled in college are paying more than ever before for their own tuition bills. The Committee believes the federal investment in higher education will continue to be a critical component of the future success of our nation only so long as it is made wisely and in the best interests of students, families, and taxpayers.

To that end, the Committee has developed comprehensive reforms that will expand college access for low- and middle-income students while simultaneously generating savings for taxpayers by eliminating program waste and inefficiency, trimming excess subsidies paid to lenders, and placing the aid programs on a more stable financial foundation to ensure their long-term viability and success for future generations of American students.

Specifically, the proposal includes a number of reforms to generate savings, including putting an end to the practices that have allowed some lenders to profit from excess subsidies on government-backed student loans, providing student loan borrowers a choice between a variable and a fixed interest rate when borrowers consolidate multiple loans into a single monthly payment, strengthening risk-sharing within the loan programs on behalf of taxpayers, implementing a financially sound interest rate structure, and encouraging more efficient and effective default prevention and protection systems.

These reforms are accompanied by proposals to strengthen student aid programs and expand student benefits. The proposal would reduce student loan fees, expand student loan borrowing opportunities, protect borrowers' credit, ease the financial aid process, and provide greater flexibility within the loan programs.

The Congressional Budget Office estimates these reforms would save $14.5 billion over five years, eliminating waste on behalf of taxpayers while strengthening and expanding student benefits. Taken together, these reforms will help place the federal student aid programs on a strong financial foundation to ensure their stability now and into the future, protecting both students and taxpayers.

Responsible PBGC Premiums

After nearly a dozen hearings over two years on the future of the defined benefit pension system, it became clear to the Committee that a piecemeal approach to reform would not improve the overall health of the defined benefit pension system. Rather, a broader effort that addresses all outdated federal pension rules in a comprehensive package is the most responsible and effective way to ensure workers and retirees can count on their pension benefits and help put the Pension Benefit Guaranty Corporation (PBGC) on more sound financial footing.

On June 30, 2005, the Committee passed the *Pension Protection Act* (H.R. 2830), comprehensive reform legislation that would strengthen the defined benefit pension system and protect the interests of workers, retirees, and taxpayers. Not only would the *Pension Protection Act* put in place new funding requirements to ensure employers properly fund their plans and provide workers with meaningful disclosure about the financial status of their pension plans, but it also would help to protect taxpayers from a possible multi-billion dollar bailout of the PBGC.

When worker pension plans are terminated and the financial burden is placed on the federal government, workers, retirees, and taxpayers all stand to lose. And as more companies file for bankruptcy and increase the chance of additional employee pension plans being turned over to the PBGC, it has never been more apparent that the health of the nation's worker pension system is a bottom line concern for American taxpayers.

Because of more and more pension plan terminations, the PBGC now has an operating deficit that exceeds $23 billion, making the prospect of a taxpayer bailout of the PBGC looms larger with each plan it takes over. This fact has been taken into serious consideration as the Committee works to meet its budget reconciliation instruction.

Two important steps are essential to improving the financial condition of the PBGC and ensuring its long-term solvency: (1) reforming the funding rules to ensure pensions are more adequately and consistently funded; and (2) increasing premiums paid by employers to the PBGC in a responsible fashion.

It is important to note that ensuring employers fund their plans properly will prove more helpful to the overall defined benefit system than additional premiums paid to the PBGC. Quite simply, raising premiums alone will not solve the problem. However, Congress has not raised premiums since 1991, so a reasonable increase is both prudent and necessary. These premiums are the chief source of funding for the agency. No tax dollars are used to keep the PBGC afloat. Increasing premiums would help strengthen the PBGC's financial condition in the short-term.

The Committee's proposal to put the PBGC on a more secure financial foundation is two-pronged. First, it would phase in responsible increases in the flat-rate premiums paid to the agency each year. Second, it would establish employer-paid termination premiums.

If Congress passes comprehensive pension reform that is signed into law by President Bush before the end of the year, those comprehensive reforms would take precedence. It is the strong view of the Committee that the benefits of comprehensive reform, which include proposals to strengthen the PBGC, far outweigh the benefits of increases in premiums alone.

The reconciliation proposal would increase premiums from $19 to $30 annually beginning in 2006 and give the PBGC the discretion to increase these premiums up to 20 percent per year thereafter. Should the PBGC prove its necessary to raise premiums and exercise this discretion, the proposal reserves for Congress the right to disapprove the increase in a straight up-or-down vote each year. The Congressional Budget Office estimates this plan would provide the PBGC an additional $5.2 billion in additional financial resources over five years.

Next, the Committee proposes to establish a $1,250 per participant premium on companies that have gone through bankruptcy and terminated their pension plans. These termination premiums would be paid for three consecutive years once a company emerges from bankruptcy. The Congressional Budget Office estimates this plan would provide the PBGC an additional $1 billion in financial resources over five years.

Although the PBGC has enough resources to make benefit payments for the near future, the long-term outlook for the agency is anything but certain. With some $450 billion in pension plan underfunding among financially weak companies looming on the horizon, the PBGC's debt could deepen even further. The Committee's action on employer premiums is only small part of the larger effort to place the traditional pension system on more solid ground – but it is nonetheless an important one, for workers, retirees, and taxpayers alike.

PURPOSE

The purpose of this legislation is to provide additional resources to the Pension Benefit Guaranty Corporation ("PBGC") to ensure that it is on sound financial footing, while at the same time helping the Committee on Education and the Workforce satisfy the instructions to reduce direct spending given to it in the FY2006 budget resolution.[1] This legislation amends the current flat-rate PBGC premium structure – which has remained unchanged since 1991 – to better reflect the cost of plan termination insurance that the PBGC provides to qualified defined benefit pension plans. Further, it requires plans to pay a termination premium to the PBGC for assuming the liabilities of underfunded pension plans which are terminated under distress termination procedures. Reforming the premium structure will help to improve the financial status of the PBGC, which in turn will ultimately better protect workers and retirees receiving PBGC-guaranteed benefits now and into the future. At the same time, these reforms represent a fiscally responsible means to achieve necessary cost savings.

COMMITTEE ACTION

On June 9, 2005, Committee on Education and the Workforce Chairman John A. Boehner, Subcommittee on Employer-Employee Relations Chairman Sam Johnson and Vice Chairman John Kline, and Committee on Ways and Means Chairman Bill Thomas introduced H.R. 2830, the "Pension Protection Act of 2005." H.R. 2830 represents the culmination of legislative activity, begun in the 106th Congress and continuing through the 109th Congress, intended to fix outdated pension laws that threaten the fiscal well-being of taxpayers, workers, and retirees, and to improve the pension security of all American workers. This legislation continues part of that effort.

106th Congress

In the 106th Congress, the Committee on Education and the Workforce (the "Committee") began a comprehensive review of the federal law governing private pensions, the Employee Retirement Income Security Act ("ERISA"), and its relevance to the needs of participants, beneficiaries, and employers in the 21st century.

On March 11, 1999, Representatives Rob Portman and Benjamin Cardin introduced H.R. 1102, the "Comprehensive Retirement Security and Pension Reform Act of 1999." The bill was jointly referred to the Committee on Education and Workforce and the Committee on Ways and Means. On June 29, 1999, the Subcommittee on Employer-Employee Relations held a hearing entitled "Enhancing Retirement Security: A Hearing on H.R. 1102, the 'Comprehensive Retirement Security and Pension Reform Act of 1999.'" Testimony was received from the bill's sponsors, Representatives Portman and Cardin.

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[1] *See* H. Con. Res. 95. H. Con. Res. 95 set forth the budget for the federal government for fiscal year 2006, and, additionally, instructed a number of committees of the House of Representatives to submit to the Committee on the Budget recommendations for slowing the growth in mandatory spending.

On July 14, 1999, the Committee discharged the Subcommittee on Employer-Employee Relations from consideration of the bill, approved H.R. 1102, and ordered it favorably reported to the House of Representatives by voice vote. On July 19, 2000, the House of Representatives passed the bill by a vote of 401 yeas to 25 nays.[2] The Senate did not complete consideration of H.R. 1102 prior to the adjournment of the 106th Congress.

On February 15, 2000, the Subcommittee on Employer-Employee Relations continued its examination of issues arising under ERISA at a hearing entitled "The Evolving Pension and Investment World After 25 Years of ERISA." The following individuals testified before the Subcommittee: Professor John H. Langbein, Chancellor Kent Professor of Law and Legal History, Yale Law School; Michael S. Gordon, Esq., Law Offices of Michael S. Gordon; Dr. John B. Shoven, Charles R. Schwab Professor of Economics, Stanford University; and Dr. Teresa Ghilarducci, Associate Professor of Economics, University of Notre Dame.

On March 9 and 10, 2000, the Subcommittee on Employer-Employee Relations held two days of hearings entitled "More Secure Retirement for Workers: Proposals for ERISA Reform." Testifying on March 9 were: W. Allen Reed, President, General Motors Investment Management Company, testifying on behalf of the Committee on Investment of Employee Benefit Assets (CIEBA) of the Financial Executives Institute; Daniel P. O'Connell, Corporate Director for Employee Benefits and HR Systems, United Technologies Corporation, testifying on behalf of the ERISA Industry Committee (ERIC); Damon Silvers, Esq., Associate General Counsel, AFL-CIO; Professor Joseph A. Grundfest, William A. Franke Professor of Law and Business, Stanford Law School, and co-founder of Financial Engines, Inc.; Eula Ossofsky, President, Board of Directors, Older Women's League; and Margaret Raymond, Esq., Assistant General Counsel, Fidelity Investments, testifying on behalf of the Investment Company Institute. During the second day of hearings on March 10, the Subcommittee heard testimony from Kenneth S. Cohen, Esq., Senior Vice President and Deputy General Counsel, Massachusetts Mutual Life Insurance Company, testifying on behalf of the American Council of Life Insurers; Marc E. Lackritz, President, Securities Industry Association; David Certner, Senior Coordinator, Department of Federal Affairs, American Association of Retired Persons; Louis Colosimo, Managing Director, Morgan Stanley Dean Witter & Company, Inc., testifying on behalf of the Bond Market Association; John Hotz, Deputy Director, Pension Rights Center; and Deedra Walkey, Esq., Assistant General Counsel, Frank Russell Company.

[2] Fifteen provisions of Title VI of H.R. 1102 subsequently were included in H.R. 2488, the "Taxpayer Refund and Relief Act of 1999," which passed the House and Senate on August 5, 1999, but was vetoed by then-President Clinton. The following year, twenty-two ERISA provisions from H.R. 1102 were included in the "Retirement Savings and Pension Coverage Act of 2000," which was included in H.R. 2614, the "Taxpayer Relief Act of 2000." The conference report on H.R. 2614 was adopted by the House on October 26, 2000, by a vote of 237 yeas, 174 nays, and one present. The conference report was not adopted by the Senate prior to adjournment of the 106th Congress.

On March 16, 2000, the Subcommittee on Employer-Employee Relations held a hearing entitled “The Wealth Through the Workplace Act: Worker Ownership in Today’s Economy.” The hearing focused on H.R. 3462, introduced by then-Subcommittee Chairman John A. Boehner, which made stock options more readily available to ERISA participants. Testifying before the Subcommittee were: Jane F. Greenman, Esq., Deputy General Counsel (Human Resources), Honeywell, Inc., testifying on behalf of the American Benefits Counsel; Tim Byland, Senior Sales Executive, INTERVU, Inc.; and Patrick Von Bargen, Executive Director, National Commission on Entrepreneurship.

On April 4, 2000, the Subcommittee on Employer-Employee Relations continued its examination of ERISA reform in a hearing entitled “Modernizing ERISA to Promote Retirement Security.” The following individuals testified at the hearing: the Honorable Leslie Kramerich, Acting Assistant Secretary of Labor for Pension and Welfare Benefits, U.S. Department of Labor; and David M. Strauss, Executive Director, Pension Benefit Guaranty Corporation.

On June 26, 2000, Subcommittee Chairman Boehner introduced H.R. 4747, the Retirement Security Advice Act of 2000. On July 19, 2000, the Subcommittee on Employer-Employee Relations ordered H.R. 4747 favorably reported, as amended, by voice vote. There was no further action taken on the legislation prior to the conclusion of the 106th Congress.

Concluding its legislative activity for the 106th Congress, the Subcommittee on Employer-Employee Relations held a hearing on September 14, 2000 entitled “How to Improve Pension Coverage for American Workers.” The Subcommittee heard testimony from Theodore Groom, Esq., Groom Law; Michael Calabrese, Director, Public Assets Program, New America Foundation; and Ed Tinsley, III, President and CEO, K-Bob’s Steakhouse.

107th Congress

Building upon the activity of the previous Congress, the Committee continued its efforts to examine and improve upon the private pension system. On March 14, 2001, Representatives Portman and Cardin introduced H.R. 10, which was very similar to the House-passed H.R. 1102 of the previous Congress. The Subcommittee on Employer-Employee Relations held a legislative hearing on the bill on April 5, 2001. At the hearing, entitled “Enhancing Retirement Security: A Hearing on H.R. 10, The ‘Comprehensive Retirement Security and Pension Reform Act of 2001,’” testimony was received from the bill’s sponsors, Representatives Portman and Cardin; Nanci S. Palmintere, Director of Tax, Licensing and Customs, Intel Corporation, testifying on behalf of the American Benefits Council; Richard Turner, Esq., Associate General Counsel, American General Financial Group, testifying on behalf of the American Council of Life Insurers; Judith Mazo, Senior Vice President, Segal Co., testifying on behalf of the Building and Construction Trades Department, AFL-CIO and the National

Coordinating Committee for Multiemployer Plans; and Karen Ferguson, Director, Pension Rights Center.

On April 26, 2001, the Committee on Education and the Workforce approved H.R. 10, as amended, by voice vote and ordered the bill favorably reported to the House of Representatives. On May 5, 2001, the House of Representatives passed H.R. 10 by a vote of 407 yeas to 24 nays. On May 16, 2001, the provisions of H.R. 10 were included in H.R. 1836, the "Economic Growth and Tax Relief Reconciliation Act," and passed by the House of Representatives on a vote of 230 yeas to 197 nays. The House passed the conference report on the measure on May 26, 2001, by a vote of vote of 240 yeas to 154 nays. On December 5, 2001, the Senate adopted the conference report, as amended, by a vote of 90 yeas and nine nays. On December 11, 2001, the House agreed to the Senate amendments by a roll call vote of 369 yeas and 33 nays. The President signed the bill into law on December 21, 2001; it became public law 107-90.

On June 21, 2001, Committee on Education and the Workforce Chairman Boehner introduced H.R. 2269, the "Retirement Security Advice Act of 2001," a bill to promote the provision of retirement investment advice to workers regarding the management of their retirement income assets. The bill was referred to the Committee on Education and the Workforce and the Committee on Ways and Means.

On July 17, 2001, the Subcommittee on Employer-Employee Relations held a hearing on H.R. 2269. Testifying before the Subcommittee were the Honorable Ann L. Combs, Assistant Secretary for Pension and Welfare Benefits, U.S. Department of Labor; Betty Shepard, Human Resources Administrator, Mohawk Industries, Inc.; Damon Silvers, Esq., Associate General Counsel, AFL-CIO; Richard A. Hiller, Vice President, Western Division, TIAA-CREF; Joseph Perkins, Immediate Past Present, American Association for Retired Persons; and Jon Breyfogle, Principal, Groom Law Group, testifying on behalf of the American Council of Life Insurers.

On August 2, 2001, the Subcommittee on Employer-Employee Relations approved H.R. 2269, without amendment, by voice vote and ordered the bill favorably reported to the full Committee. On October 3, 2001, the Committee approved H.R. 2269, as amended, and ordered the bill favorably reported to the House of Representatives by a roll call vote of 29 yeas to 17 nays. The Committee on Ways and Means considered and marked up the bill on November 7, 2001, and reported it to the House on November 13, 2001. The bill, as amended, passed the House of Representatives on November 15, 2001 by a roll call vote of 280 yeas to 144 nays. The Senate did not consider the measure prior to the adjournment of the 107th Congress.

On February 6 and 7, 2002, the Committee held two days of hearings entitled "The Enron Collapse and Its Implications for Worker Retirement Security." On February 6, the sole witness was U.S. Secretary of Labor Elaine Chao. On the second day, the witnesses were Thomas O. Padgett, Senior Lab Analyst, EOTT; Cindy K. Olson, Executive Vice President, Human Resources and Community Relations and Building Services, Enron Corporation; Mikie Rath, Benefits Manager, Enron Corporation; Scott

Peterson, Global Practice Leader for Defined Contribution Services, Hewitt Associates; and Dr. Teresa Ghilarducci, Associate Professor, Department of Economics, University of Notre Dame.

The Subcommittee on Employer-Employee Relations held a hearing on February 13, 2002 entitled "Enron and Beyond: Enhancing Worker Retirement Security." The Subcommittee heard testimony from Jack L. VanDerhei, Ph.D., CEBS, Professor, Department of Risk, Insurance, and Healthcare Management, Fox School of Business and Management, Temple University, testifying on behalf of the Employee Benefit Research Institute; Douglas Kruse, Ph.D., Professor, School of Management and Labor Relations, Rutgers University; Norman Stein, Douglas Arant Professor of Law, University of Alabama School of Law; and Rebecca Miller, CPA, Partner, McGladrey & Pullen, LLP.

On February 14, 2002, Chairman Boehner and Subcommittee on Employer-Employee Relations Chairman Sam Johnson introduced H.R. 3762, the "Pension Security Act."

On February 27, 2002, the Subcommittee on Employer-Employee Relations held a hearing entitled "Enron and Beyond: Legislative Solutions." The witnesses were Dave Evans, Vice President, Retirement and Financial Services, Independent Insurance Agents of America; Angela Reynolds, Director, International Pension and Benefits, NCR Corporation; Erik Olsen, Member, Board of Directors, American Association of Retired Persons; Dr. John H. Warner, Jr., Corporate Executive Vice President, Science Applications International Corp., testifying on behalf of the Profit Sharing Council of America; Richard Ferlauto, Director of Pensions and Benefits, American Federation of State County, and Municipal Employees (AFSCME), testifying on behalf of AFSCME and AFL-CIO; and John M. Vine, Esq., Partner, Covington and Burling, testifying on behalf of the ERISA Industry Committee.

On March 20, 2002, the Committee on the Education and the Workforce approved H.R. 3762, as amended, and ordered the bill favorably reported to the House of Representatives by a roll call vote of 28 yeas to 19 nays. On April 11, 2003 the House passed H.R. 3762 by a recorded vote of 255 yeas to 163 nays. No further action was taken on the measure prior to the adjournment of the 107th Congress.

108th Congress

Building on the success of corporate reform and the foundation of the pension reform principles established during the 107th Congress, the Subcommittee on Employer-Employee Relations held a hearing on Feburary 13, 2003, entitled ''The Pension Security Act: New Pension Protections to Safeguard the Retirement Savings of American Workers." Testifying before the Subcommittee were the Honorable Ann L. Combs, Assistant Secretary, Employee Benefits Security Administration, United States Department of Labor; Ed Rosic, Esq., Vice President and Managing Assistant General Counsel, Marriott International, Inc., testifying on behalf of the American Benefits Council; Nell Minow, Editor, The Corporate Library, testifying on behalf of Robert

Monks, Lens Governance Advisors; and Scott Sleyster, Senior Vice President and President of Retirement Services and Guaranteed Products, Prudential Financial.

On February 27, 2003, Chairman Boehner and Subcommittee on Employer-Employee Relations Chairman Sam Johnson introduced H.R. 1000, the "Pension Security Act of 2003." This bill incorporated the provisions of H.R. 2269 from the previous Congress, and contained a number of ERISA provisions from H.R. 10 in the 107th Congress that were dropped prior to that bill's final passage.

On March 5, 2003, the Committee on Education and the Workforce approved H.R. 1000, as amended, and ordered the bill favorably reported to the House of Representatives by a roll call vote of 29 yeas to 19 nays. On May 14, 2003, the House of Representatives passed H.R. 1000 by a roll call vote of 271 yeas to 157 nays. The Senate did not complete consideration of the bill before the adjournment of the 108th Congress.

On June 4, 2003, as part of a series of hearings that would focus on the challenges that faced the future of defined benefit plans and highlight obstacles in federal law that discourage employers from offering these plans, the Subcommittee on Employer-Employee Relations held a hearing entitled "Strengthening Pension Security: Examining the Health and Future of the Defined Benefit Plan." The Subcommittee heard testimony from Dr. Jack Van Derhei, Professor, Fox School of Business Management, Temple University, testifying on behalf of the Employee Benefits Research Institute; Dr. John Leary, Esq., Partner, O'Donoghue and O'Donoghue; Ron Gebhardtsbauer, Senior Pension Fellow, American Academy of Actuaries; and J. Mark Iwry, Esq., Non-Resident Senior Fellow, The Brookings Institution.

On July 15, 2003, the Subcommittee on Employer-Employee Relations and the Ways and Means Subcommittee on Select Revenue Measures held a joint hearing entitled "Examining Pension Security and Defined Benefit Plans: The Bush Administration's Proposal to Replace the 30-Year Treasury Rate." The following witnesses testified on the Bush Administration's proposal to replace the discontinued 30-year Treasury interest rate that was used as the benchmark for defined benefit pension plan funding: The Honorable Ann Combs, Assistant Secretary, Employee Benefits Security Administration, U.S. Department of Labor; The Honorable Peter Fisher, Under Secretary for Domestic Finance, U.S. Department of Treasury; Kenneth Porter, Director of Corporate Insurance and Global Benefits Financial Planning, DuPont Company; Ashton Phelps, Publisher, The Times-Picayune; Kenneth Steiner, Resource Actuary, Watson Wyatt Worldwide; and Christian Weller, Economist, Economic Policy Institute.

On September 4, 2003, the Committee on Education and the Workforce held the third in a series of hearings to examine the future of defined benefit pension plans entitled "Strengthening Pension Security and Defined Benefit Plans: Examining the Financial Health of the Pension Benefit Guaranty Corporation." The witnesses included David Walker, Comptroller General, General Accounting Office, and Steven Kandarian, Executive Director, Pension Benefit Guaranty Corporation.

On September 17, 2003, Chairman Boehner, joined by Senior Democrat Member George Miller, Subcommittee on Employer-Employee Relations Chairman Sam Johnson, Committee on Ways and Means Chairman Bill Thomas, Ways and Means Committee Senior Democrat Member Charles Rangel, and Representative Rob Portman introduced H.R. 3108, the "Pension Funding Equity Act of 2003." On October 8, 2003, the House passed the bill, as amended, by a vote of 397 yeas and two nays. On January 28, 2004, the Senate approved an amended version of H.R. 3108 by a roll call vote of 86 yeas and nine nays. The House adopted the conference report on the bill on April 2, 2004, by a vote of 336 yeas and 69 nays. On April 8, 2004, the Senate adopted the conference report by a vote of 78 yeas and 19 nays. On April 10, 2004 President Bush signed the bill into law; it became public law 108-218.

Immediately following House passage of H.R. 3108, Chairman Boehner and Subcommittee Chairman Sam Johnson announced that the Committee would proceed with its work to implement permanent, long-term solutions to the pension underfunding crisis. On October 29, 2003, the Committee held a hearing entitled "The Pension Underfunding Crisis: How Effective Have Reforms Been?" Testifying before the Committee were Barbara Bovbjerg, Director of Education, Workforce, and Income Security Issues, General Accounting Office; Robert Krinsky, Chairman, Segal Company; Michael S. Gordon, Esq., General Counsel, National Retiree Legislative Network, testifying on behalf of the American Benefits Council; J. Mark Iwry, Esq., Non-Resident Senior Fellow, Brookings Institution; and David John, Research Fellow, Thomas A. Roe Institute for Economic Policy Studies, Heritage Foundation.

On February 25, 2004, the Committee held a hearing entitled "Strengthening Pension Security for All Americans: Are Workers Prepared for a Safe and Secure Retirement?" Testifying before the Committee were Ben Stein, Honorary Chairperson, National Retirement Planning Coalition; Dan McCaw, Chairman and CEO, Mercer Human Resource Consulting; C. Robert Henrikson, President, U.S. Insurance and Financial Services, MetLife; and Peter R. Orszag, Joseph A. Pechman Senior Fellow, Brookings Institution.

On March 18, 2004, the Subcommittee on Employer-Employee Relations held a hearing entitled, "Reforming and Strengthening Defined Benefit Plans: Examining the Health of the Multiemployer Pension System." Testifying before the Subcommittee were Barbara Bovbjerg, Director of Education, Workforce, and Income Security Issues, General Accounting Office; John McDevitt, Senior Vice President, United Parcel Service; Scott Weicht, Executive Vice President, Adolfson and Peterson Construction, testifying on behalf of the Associated General Contractors; and Randy G. DeFrehn, Executive Director, National Coordinating Committee for Multiemployer Plans.

On April 29, 2004, the Subcommittee on Employer-Employee Relations held a hearing entitled "Examining Long-Term Solutions to Reform and Strengthen the Defined Benefit Pension System." Testifying before the Subcommittee were Kenneth A. Kent, Academy Vice President, Pension Issues, American Academy of Actuaries; Greg Heaslip, Vice President, Benefits, PepsiCo, Inc.; J. Mark Iwry, Esq., Non-Resident Senior

Fellow, the Brookings Institution; Timothy Lynch, President and CEO, Motor Freight Carriers Association; John S. "Rocky" Miller, Esq., Partner, Cox, Castle & Nicholson, L.L.P.; and Teresa Ghilarducci, Ph.D., Associate Professor of Economics and Director of the Monsignor Higgins Labor Research Center, University of Notre Dame.

On July 7, 2004, the Committee held its eighth hearing in the 108th Congress, focusing on issues relating to cash balance pension plans. The hearing was entitled "Examining Cash Balance Pension Plans: Separating Myth from Fact." The Committee heard testimony from James Delaplane, Jr., Esq., Attorney, American Benefits Council; Ellen Collier, Director of Benefits, Eaton Corporation; Dr. Robert Clark, Professor, College of Management, North Carolina State University; Robert Hill, Esq., Partner, Hill & Robbins; and Nancy Pfotenhauer, President, Independent Women's Forum.

109th Congress

In the 109th Congress, the Committee continued its efforts to focus on comprehensive reform of the defined benefit pension system. On March 2, 2005, the Committee held a hearing entitled "The Retirement Security Crisis: The Administration's Proposal for Pension Reform and Its Implications for Workers and Taxpayers." Testifying before the Committee were the Honorable Ann L. Combs, Assistant Secretary, Employee Benefits Security Administration, U.S. Department of Labor; the Honorable Mark Warshawsky, Assistant Secretary for Economic Policy, U.S. Department of Treasury; Bradley Belt, Executive Director, Pension Benefit Guaranty Corporation; Kenneth Porter, Director of Corporate Insurance and Global Benefits Financial Planning, the DuPont Company, testifying on behalf of the American Benefits Council; Norman Stein, Douglas Arant Professor, University of Alabama School of Law; and Dr. Janemarie Mulvey, Chief Economist, Employment Policy Foundation.

On June 9, 2005, Chairmen Boehner, Employer-Employee Relations Subcommittee Chairman Sam Johnson, Employer-Employee Relations Vice-Chairman John Kline and Committee on Ways and Means Chairman Bill Thomas introduced H.R. 2830, the "Pension Protection Act of 2005." On that same day, Chairman Boehner also introduced H.R. 2831, the "Pension Preservation and Portability Act of 2005."

On June 15, 2005, the Committee held a legislative hearing on H.R. 2830. Testifying before the Committee were Lynn Franzoi, Vice President for Human Resources, Fox Entertainment Group, testifying on behalf of the U.S. Chamber of Commerce; Bart Pushaw, Actuary, Milliman, Inc.; Dr. Teresa Ghilarducci, Professor of Economics, University of Notre Dame; Timothy Lynch, President and CEO, Motor Freight Carriers Association; Judy Mazo, Senior Vice President/Director of Research, The Segal Company; and Andy Scoggin, Vice President for Labor Relations, Albertsons, Inc.

On June 22, 2005, the Subcommittee on Employer-Employee Relations approved H.R. 2830, as amended, and ordered the bill favorably reported to the full Committee, by voice vote. On June 30, 2005, the full Committee approved H.R. 2830, as amended, and ordered the bill favorably reported to the House of Representatives by a roll call vote of 27 yeas, 0 nays, and 22 present. H.R. 2830, as amended and reported to the House, included several provisions contained within H.R. 2831.

On October 26, 2005, pursuant to the instructions to report to the House of Representatives Committee on the Budget recommendations for reducing direct spending contained in H. Con. Res. 95,[3] the Committee considered this legislation as part of the reconciliation process. The Committee ordered this legislation, as amended, reported to the Committee on the Budget by voice vote.

SUMMARY

The legislation increases the flat-rate premium paid to the PBGC for each plan participant from the current $19 to $30, and indexes the premium annually to reflect the growth of worker wages since 1991 and into the future.

The legislation also provides the PBGC with the discretion to increase the per-participant, flat-rate premium for a subsequent plan year if the PBGC determines that such increase for the year is necessary to achieve actuarial soundness of the plan termination insurance program. However, the PBGC may only increase the flat-rate premium up to 20 percent of the dollar amount of the premium in effect for the preceding plan year (after adjustment for inflation). PBGC must determine such increase is necessary within 120 days of the first day of each calendar year for any increase to take effect for the succeeding plan year, and provide Congress with its proposal as to the reasons why such increase is necessary to achieve actuarial soundness of the single employer insurance program. The PBGC shall include all methodologies and assumptions used in the proposal. Congress has the authority to disapprove of any PBGC premium increase within 60 days of session following the date on which the proposal is received by Congress.

Additionally, the legislation includes a plan termination premium, payable to the PBGC of a rate equal to $1250 multiplied by the number of individuals who were participants in the plan immediately before the termination date, if a plan is terminated as a result of a distress termination initiated by a plan sponsor or by the PBGC.[4] The termination premium is due to the PBGC by the former plan sponsor for the three consecutive plan years following the plan termination date and must be paid within 30 days after the beginning of the first applicable plan year that such premium takes effect. If a plan is terminated under title 11 of the United States Code, the termination premium will not be due until the former plan sponsor emerges from bankruptcy reorganization. The termination premium applies to cases commenced under title 11, United States Code or under any similar law of a State or political subdivision of a State, after October 26, 2005.

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[3] *See* footnote 1, *supra*.
[4] *See* ERISA § 4041(c)(2)(B)(ii) and (iii).

Finally, the legislation provides that any amendments it makes do not take effect if comprehensive pension reform legislation is enacted prior to January 1, 2006.

COMMITTEE VIEWS

Two important steps are essential to improving the financial condition of the PBGC and ensuring its long-term solvency: (1) reforming funding rules to ensure pensions are more adequately and consistently funded; and (2) increasing premiums paid by employers to the PBGC in a responsible fashion. Comprehensive pension reform legislation in the form of H.R. 2830, the "Pension Protection Act of 2005," which is expected to be voted on by the House later this fall, would take both of these steps. The budget reconciliation process presents an opportunity to accomplish the latter of the two.

It is the strong view of the Committee that the benefits of comprehensive reform, which include proposals to strengthen the PBGC, far outweigh the benefits of increases in PBGC premiums alone. Ensuring employers fund their plans appropriately will prove more helpful to the overall defined benefit system than additional premiums paid to the PBGC. However, Congress has not raised premiums since 1991, so a reasonable increase is both prudent and necessary.

Background and the Need for Legislation

The minimum funding requirements under the Employee Retirement Income Security Act ("ERISA") permit an employer to fund defined benefit plan benefits over a certain period of time, but do not require a plan to be fully funded. As a result, pension plans may be terminated when plan assets are not sufficient to provide all benefits accrued by employees under the plan. This type of termination is generally referred to as a "distress termination."[5] In order to protect plan participants from losing retirement benefits if a plan terminates without sufficient assets to pay vested, accrued benefits, the PBGC, a corporation within the Department of Labor, was created in 1974 under ERISA to provide an insurance program for the payment of benefits from certain terminated pension plans maintained by private employers.[6]

The PBGC is funded by premiums paid by plan sponsors, assets from terminated plans, amounts recovered by employers who terminate underfunded plan, and investment

[5] *See* ERISA § 4041(b)-(c). A "distress termination" is the termination of an underfunded plan initiated either by the request of the plan sponsor or an involuntary termination initiated by the PBGC. The PBGC may institute proceedings to terminate a plan if, among other things, the plan will be unable to pay benefits when due or the possible long-term loss to the PBGC with respect to the plan may reasonably be expected to increase if the plan is not terminated. ERISA also allows a sponsoring employer to terminate a pension plan by a "standard termination." A standard termination is a termination of a fully-funded defined benefit pension plan. Plan sponsors may terminate a fully-funded plan by purchasing a group annuity contract from an insurance company under which the insurance company agrees to pay all accrued benefits, or by payment of lump sum benefits if permissible.

[6] *See* ERISA § 4021(b)(13). Plans sponsored by professional service employers, such as physicians and lawyers, with 25 or fewer employees are not covered by the PBGC single-employer insurance program.

earnings. All covered single employer plans are required to pay a flat-rate premium that is statutorily set at $19 per participant annually.[7]

The Committee believes that the role of the PBGC in protecting the retirement benefits of over 34 million Americans participating in single employer defined benefit plans is crucial.[8] However, the current system does not contain appropriate funding rules to ensure that pension plans are adequately funded. Over the past few years, the terminations of severely underfunded pension plans have threatened the retirement security of the participants and beneficiaries who earned these benefits. Furthermore, the recent terminations of several notable and chronically underfunded pension plans has placed an increasing financial strain on the PBGC single employer pension insurance program, and has threatened its long-term viability.

Recent statistical evidence suggests that PBGC's long-term financial health may be in jeopardy. In March 2005, the Executive Director of the PBGC, Bradley D. Belt, testified on the financial condition of the PBGC:

> The pension insurance programs administered by the PBGC have come under severe pressure in recent years due to an unprecedented wave of pension plan terminations with substantial levels of underfunding. This was starkly evident in 2004, as the PBGC's single employer insurance program posted its largest year-end shortfall in the agency's 30-year history. Losses from completed and probable pension plan terminations totals $14.7 billion for the year, and the program ended with a deficit of $23.3 billion. That is why the Government Accountability Office has once again placed the PBGC's single employer insurance program on its list of "high risk" government programs in need of attention.[9]

The latest plan sponsor filings with the PBGC reveal an unprecedented and systematic pension underfunding problem within the defined benefit pension system. On June 7, 2005, the PBGC issued a press release stating that companies with underfunded pension plans reported a record shortfall of $353.7 billion in their filings with the PBGC, which represents a 27 percent increase from the previous year. The 2004 reports, filed with the PBGC by April 15, 2005, were submitted by 1,108 pension plans covering approximately 15 million workers and retirees. In total, the filings indicated that underfunded plans had only $786.8 billion in assets to cover more than $1.14 trillion in liabilities, for an average funded ratio of approximately 69 percent.

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[7] *See* ERISA § 4006(a)(3). In addition, underfunded plans are subject to an additional premium know as the "variable rate premium." This premium is based on the level of plan underfunding, which is calculated by multiplying $9 for every $1000 of plan underfunding.
[8] The PBGC currently guarantees payment of basic pension benefits of participants in approximately 29,000 defined benefit plans.
[9] Hearing on "The Retirement Security Crisis: The Administration's Proposal for Pension Reform and Its Implications for Workers and Taxpayers," before the Committee on Education and the Workforce, U.S. House of Representatives, 109th Congress, First Session, March 2, 2005.

It is important to note that the PBGC has acknowledged that it has the adequate resources to continue paying benefits into the future; however, its financial condition will continue to deteriorate without comprehensive reforms made to the entire defined benefit pension system. Mr. Belt specifically testified on the current financial condition of the PBGC as well as its ability to pay benefits in the future:

> Notwithstanding our record deficit, I want to make clear that the PBGC has sufficient assets on hand to continue paying benefits for a number of years. However, with $62 billion in liabilities and only $39 billion in assets as of the end of the past fiscal year, the single employer program lacks the resources to fully satisfy its benefit obligations.[10]

Ann Combs, Assistant Secretary of the Employee Benefits Security Division, U.S. Department of Labor, testified this year on the need for funding reform changes:

> The increasing PBGC deficit and high levels of plan underfunding are themselves a cause for concern. More importantly, they are symptomatic of serious structural problems in the private defined benefit system. It is important to strengthen the defined benefit pension system now.[11]

It is the view of the Committee that a PBGC flat-rate premium increase is appropriate; however, comprehensive funding rule changes are needed in order to address the systematic pension underfunding crisis that continues to threaten the financial security of millions of participants and ultimately determines plan solvency. That said, the budget resolution for FY2006 requires the Committee to report significant savings from the PBGC premiums charged to single employer plan sponsors, notwithstanding the Committee's preference that such savings be accomplished through comprehensive funding reforms.

The PBGC is required through statutory mandates to maintain premiums at the lowest levels consistent with carrying out the agency's statutory obligations.[12] However, as stated above, these premiums have not been increased in over fourteen years and are simply not adequate for the payment of guaranteed benefits. This legislation responsibly increases flat-rate premiums paid by plan sponsors maintaining certain qualified defined benefit pension plans in order to assist the PBGC in continuing to provide benefits to participants and beneficiaries in terminated pension plans.

Since the PBGC is not a private insurance company, it cannot charge different premium rates to plan sponsors based on the level of plan underfunding which increases the risk that the plan will terminate. In light of that fact, the legislation provides the PBGC with the discretion to increase the flat-rate premium each year in order to ensure

[10] Id.
[11] Hearing on "The Retirement Security Crisis: The Administration's Proposal for Pension Reform and Its Implications for Workers and Taxpayers," before the Committee on Education and the Workforce, U.S. House of Representatives, 109th Congress, First Session, March 2, 2005, Serial No. 109-3.
[12] *See* ERISA § 4002(a)(3).

its ability to pay guaranteed benefits to participants and beneficiaries in terminated plans in which the liabilities have been assumed by the PBGC. The Committee believes that it is important for Congress to retain the ultimate decision to implement any premium increase. Accordingly, the legislation reserves to Congress the right to reject a proposed discretionary PBGC increase if the agency does not prove that such increase is necessary to achieve actuarial soundness of the single-employer insurance program in the year such increase is requested.

As noted above, the legislation also establishes a new premium to be paid by former plan sponsors who initiate and complete a distress termination. The distress terminations of several notable pension plans with significant underfunding in a bankruptcy reorganization proceeding continues to have negative effects on the participants and beneficiaries in such plans, as well as the remaining employers that sponsor defined benefit plans and pay premiums to the PBGC. At a hearing on pension reform before the full Committee, Mr. Belt testified on the impact of distress terminations:

> The termination of underfunded pension plans can have harsh consequences for workers and retirees … other companies that sponsor defined benefit plans also pay the price through higher premiums when underfunded plans terminate. Not only will healthy companies be subsidizing the weak companies with chronically underfunded plans, they may also face the prospect of having to compete against a rival firm that has shifted a significant portion of its labor costs onto the government.[13]

For these reasons, in addition to the flat-rate premium increase, the Committee believes that a termination premium for former plan sponsors who initiate and complete a distress termination while in bankruptcy is appropriate. The bankruptcy courts should not be used as a mechanism for eliminating the burden of an underfunded pension plan; therefore, an additional premium paid to the PBGC to recognize the agency's assumption of unfunded plan liabilities is reasonable. The Committee believes that a retroactive provision that includes a termination premium for plans that have already commenced or completed bankruptcy reorganization is an unforeseen penalty that is inappropriate to impose. However, the Committee does believe that plan sponsors that have not filed a petition for bankruptcy reorganization must take into account the cost of the termination premium that will be imposed subsequent to an emergence from bankruptcy.

As stated above, the Committee believes that comprehensive pension reform ultimately determines plan solvency and the health and future of the defined benefit pension system. Therefore, it is the Committee's intent that any of the amendments made by this legislation will not take effect if comprehensive pension reform is enacted prior to January 1, 2006.

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[13] Hearing on "The Retirement Security Crisis: The Administration's Proposal for Pension Reform and Its Implications for Workers and Taxpayers," before the Committee on Education and the Workforce, U.S. House of Representatives, 109th Congress, First Session, March 2, 2005, Serial No. 109-3.

Provisions of the Legislation

Beginning in 2006, the legislation increases the flat-rate premiums paid to the PBGC from $19 to $30 per participant annually, and adjusts the premium for years after 2006 based on increases in average wages as defined under the Social Security Act.[14] In addition, for plan years beginning in 2007, PBGC is given the discretion to increase flat-rate premiums up to 20 percent of the preceding plan year's applicable premium (after adjustment for inflation). The PBGC must transmit any proposal to increase premiums to Congress and to the Comptroller General no later than 120 calendar days after the beginning of the preceding calendar year. Congress may disapprove of such increase, by a joint resolution, within 60 days of session after the receipt of the proposal.

In addition, the legislation includes a new termination premium charged to former plan sponsors of a plan that has terminated as a result of a distress or involuntary termination. The premium charged to former plan sponsors is $1250 per participant, multiplied by the number of individuals who were participants in the plan immediately before the plan's termination date. The premium is due for three consecutive plan years following plan termination; however, if a plan is terminated under bankruptcy reorganization or a petition seeking reorganization under bankruptcy, the premium is due for the three consecutive years following the date of the discharge of the company. The premium is required to be paid to the PBGC within 30 days after the beginning of the first plan year the premium is in effect.

Finally, the legislation provides that amendments it makes shall not take effect if comprehensive pension reform legislation is passed before January 1, 2006.

Conclusion

Improving the long-term financial status of the PBGC will help ensure that plan participants and beneficiaries continue to receive their hard-earned pension benefits. The comprehensive funding requirements included in the Pension Protection Act require employers to adequately and consistently fund their pension plans. Coupled with the necessary increases in the flat-rate premiums paid by plan sponsors, the bill's comprehensive funding rule changes are needed to improve the overall heath and future of the employer-sponsored, voluntary pension system, which will ultimately protect participants' benefits as well as American taxpayers from a possible multi-billion dollar bailout of the PBGC. This legislation represents but one important element in those comprehensive reforms.

SECTION-BY-SECTION

TITLE II: IMPROVEMENT IN PBGC GUARANTEE PROVISIONS

Subtitle C: Pensions.

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[14] In general, if the premium amount as indexed is not a multiple of $1, the amount is rounded to the nearest $1; if the amount is a multiple of $.50, the amount is rounded to the next highest dollar.

<u>Section 2201. Increases in PBGC Premiums</u>.

Flat Rate Premium. The legislation provides for an increase in the PBGC yearly flat-rate insurance premium paid by plans to the PBGC from $19 to $30. The effective date of this provision shall apply to plans beginning after December 31, 2005. For plan years beginning after 2006, such premiums shall be adjusted annually, based on the national average wage index (as defined in section 209(k)(1) of the Social Security Act), rounded to the next higher multiple of $1 where such amount is a multiple of $.50.

For plan years beginning after 2006, the legislation provides PBGC with the ability to add an additional discretionary increase of an amount up to 20 percent of the premium charged to plan sponsors for the preceding plan year (after adjustment for the wage inflation), if the PBGC believes such an increase is necessary to achieve actuarial soundness. In order for the PBGC to increase premiums, it must transmit to the House of the Congress and to the Comptroller General its proposal for the increase in the premium rate for plan years commencing with or during such calendar year no later than 120 calendar days after the beginning of the preceding calendar year. Such increase shall take effect unless a joint resolution disapproving such increase has been enacted within 60 days of session after the receipt of the proposal by Congress (as provided in section 802 of chapter 8 of title 5 of the United States Code, relating to Congressional review of agency rulemaking). A copy of the proposal must be provided to the House Committee on Education and the Workforce, the House Committee on Ways and Means, the Senate Committee on Health, Education, Labor, and Pensions, and the Senate Committee on Finance. The proposal must include PBGC's methodologies and actuarial assumptions used to determine that such increase is necessary to achieve actuarial soundness of the corporation.

Termination Premium. The legislation includes a new termination premium of $1250 multiplied by the number of individuals who were participants in the plan immediately before the plan termination date. The termination premium is charged to former plan sponsors that have terminated their defined benefit plans under a distress or involuntary termination. The premium is charged for the three consecutive plan years following the date of the former plan sponsor's discharge from bankruptcy reorganization under title 11 of the United States Code, and is due within 30 days following the first day of the plan year that the termination premium is applied to the former plan sponsor. This provision applies to cases commenced under title 11, United States Code, or under any similar law of a State or political subdivision of a State, after October 26, 2005.

Special Rule. The legislation provides that the amendments made therein shall not take effect if, after the date of enactment of its enactment and before January 1, 2006, a federal law is enacted which: (1) provides for decreases in federal outlays which in the aggregate are less than the decreases in federal outlays by reason of the amendments made by the legislation; and (2) specifically provides that such decreases are to be in lieu of the decreases in federal outlays by reason of the amendments made by this section.

EXPLANATION OF AMENDMENTS

The provisions of the Amendment in the Nature of a Substitute adopted by the Committee are explained in this report.

APPLICATION OF LAW TO THE LEGISLATIVE BRANCH

Section 102(b)(3) of Public Law 104-1 requires a description of the application of this bill to the legislative branch. This Committee Print allows amends the Employee Retirement Income Security Act (ERISA) to provide for pension security. Since ERISA excludes governmental plans, the bill does not apply to legislative branch employees. As public employees, legislative branch employees are eligible to participate in the Federal Employee Retirement System.

STATEMENT OF OVERSIGHT FINDINGS AND RECOMMENDATIONS OF THE COMMITTEE

In compliance with clause 3(c)(1) of rule XIII and clause (2)(b)(1) of rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the body of this report.

UNFUNDED MANDATE STATEMENT

Section 423 of the Congressional Budget and Impoundment Control Act (as amended by Section 101(a)(2) of the Unfunded Mandates Reform Act, P.L. 104-4) requires a statement of whether the provisions of the reported bill include unfunded mandates. This Committee print amends the voluntary pension system provided under the Employee Retirement Income Security Act (ERISA). As such, the bill does not contain any unfunded mandates.

NEW BUDGET AUTHORITY AND CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

With respect to the requirements of clause 3(c)(2) of rule XIII of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974 and with respect to requirements of 3(c)(3) of rule XIII of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee will receive a cost estimate for the Committee Print for the Director of the Congressional Budget Office, which will be transmitted.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

In accordance with clause (3)(c) of House Rule XIII, the goals of the Committee Print to amend the Employee Retirement Income Security Act (ERISA). The Committee expects the Department of Labor and the Pension Benefit Guaranty Corporation to implement the changes to the law in accordance with these stated goals.

CONSTITUTIONAL AUTHORITY STATEMENT

Under clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee must include a statement citing the specific powers granted to Congress in the Constitution to enact the law proposed by the committee print. The Employee Retirement Income Security Act (ERISA) has been determined by the federal courts to be within Congress' Constitutional authority. In *Commercial Mortgage Insurance, Inc.* v. *Citizens National Bank of Dallas*, 526 F. Supp. 510 (N.D. Tex. 1981), the court held that Congress legitimately concluded that employee benefit plans so affected interstate commerce as to be within the scope of Congressional powers under Article 1, Section 8, Clause 3 of the Constitution of the United States. In *Murphy* v. *WalMart Associates' Group Health Plan,* 928 F. Supp. 700 (E.D. Tex 1996), the court upheld the preemption provisions of ERISA. Because H.R. 2269 modifies but does not extend the federal regulation of pensions, the Committee believes that the Act falls within the same scope of Congressional authority as ERISA.

COMMITTEE ESTIMATE

Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs that would be incurred in carrying out the Committee Print. However, clause 3(d)(3)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

HIGHER EDUCATION BUDGET RECONCILIATION ACT OF 2005

COMMITTEE REPORT

PURPOSE

As part of the FY 2006 budget process, the Education & the Workforce Committee was tasked with finding $18.1 billion in net savings from the direct spending programs within the Committee's jurisdiction. Chairman Boehner has consistently said the Committee would help put forward a responsible budget that cuts wasteful spending and promotes fiscal responsibility while achieving the Committee's underlying policy goals of expanding college access for low- and middle-income students. The Committee's reform package submitted pursuant to the budget reconciliation instruction achieves these goals by reducing waste and inefficiency and strengthening student benefits. A key component of the Committee's reconciliation effort was to provide relief for the victims of Hurricanes Katrina and Rita. To aid the students, borrowers and institutions of higher education whose ways of life were dramatically altered by the hurricanes, the Committee Print provides relief through waivers and forgiveness of expended funds. These provisions will assist students and borrowers attending school in, or living in, the affected areas while ensuring these expenditures are paid for to protect taxpayers and avoid adding to the Federal deficit. The reconciliation process presented the Committee with an opportunity to re-examine the mandatory spending provisions in the Higher Education Act. The reforms made in the Higher Education Budget Reconciliation Act of 2005 address excess spending in the student loan programs and ensure that the successful partnership the Federal government has had with the private sector, institutions of higher education and students continues into the future.

COMMITTEE ACTION

Of the 35 total hearings the Committee on Education and the Workforce and the Subcommittees on 21st Century Competitiveness and Select Education held since 2001 in preparation for the reauthorization of the Higher Education Act, 15 hearings were held on issues included in the Committee Print.

<u>107th Congress</u>

Hearings
First Session

On Wednesday, June 20, 2001, the Committee on Education and the Workforce, Subcommittee on 21st Century Competitiveness, held a hearing in Washington, D.C., on "H.R. 1992, the Internet Equity and Education Act of 2001." The purpose of the hearing was to hear testimony on the provisions in H.R. 1992 introduced by Representative Johnny Isakson (R-GA) on May 24, 2001. Testifying before the Subcommittee were Dr. Stanley Ikenberry, President, American Council on Education, Washington, D.C.; Dr. Richard Gowan, President, South Dakota School of Mines and Technology, Rapid City, South Dakota; Dr. Joseph DiGregorio, Vice Provost for Distance Learning, Continuing Education and Outreach, Georgia Institute of Technology, Atlanta, Georgia; Ms. Lorraine Lewis, Inspector General, U.S. Department of

Education, Washington, D.C.; and Mr. Omer Waddles, Executive Vice President, ITT Educational Services, Inc., Indianapolis, Indiana.

Hearings
Second Session

On Tuesday, July 16, 2002, the Committee on Education and the Workforce held a hearing in Washington, D.C., on "Access to Higher Education for Low-Income Students: A Review of the Advisory Committee on Student Financial Assistance Report." The purpose of the hearing was to consider the issue of access to postsecondary education, specifically for low-income students, by examining two reports released by the Advisory Committee on Student Financial Assistance, entitled *Empty Promises –The Myth of College Access in America* (July 2002) and *Access Denied* (February 2001). Testifying before the Committee were Dr. Juliet Garcia, Chairperson, Advisory Committee on Student Financial Assistance, Washington, D.C.; Mr. Lawrence E. Gladieux, Education and Public Policy Consultant, Potomac Falls, Virginia; Dr. Shirley A.R. Lewis, President, Paine College, Augusta, Georgia; and Ms. Elizabeth Sengkhammee, student, University of Wisconsin-Milwaukee, Milwaukee, Wisconsin.

Legislative Action
First Session

On May 24, 2001, Representatives Johnny Isakson (R-GA), John Boehner (R-OH), Howard P. "Buck" McKeon (R-CA), Mike Castle (R-DE), and Bob Goodlatte (R-VA) introduced H.R. 1992, the Internet Equity and Education Act of 2001, to amend the Higher Education Act and repeal the 50 percent rule for telecommunications and make additional reforms regarding distance education.

On June 28, 2001, the Subcommittee on 21st Century Competitiveness considered H.R. 1992 in legislative session and reported it favorably, as amended, to the Committee on Education and the Workforce by voice vote. The Subcommittee considered and adopted by voice vote the following amendments to H.R. 1992:

- Representative Isakson (R-GA) offered a substitute amendment that made technical and clarifying changes to the legislation. Specifically, the amendment clarified provisions dealing with incentive compensation and third-party service providers.

- Representative Wu (D-OR) offered an amendment to require a study and a report on the effect of the provisions enacted by H.R. 1992.

On August 1, 2001, the Committee on Education and the Workforce considered H.R. 1992 in legislative session and reported it favorably, as amended, to the House of Representatives by a vote of 31-10. The Committee considered and adopted by voice vote the following amendments to H.R. 1992:

- Representative Isakson (R-GA) offered a substitute amendment that made technical and clarifying changes to the legislation. Specifically, the amendment made modifications to the 50 percent rule for telecommunications. Additionally, the amendment modified the 12-hour rule to require non-traditional programs that provide less than 12 scheduled hours of instruction to notify the Secretary of Education.

- Representative Miller (D-CA) offered an amendment to authorize the Learning Anytime Anywhere Partnership Grants at $30 million, an increase from the current law authorization of $10 million.

Legislative Action
Second Session

On July 11, 2002, Representatives Lindsey Graham (R-SC), John Boehner (R-OH), Howard P. “Buck” McKeon (R-CA), Todd Platts (R-PA), James Greenwood (R-PA), Johnny Isakson (R-GA), Charlie Norwood (R-GA), John Cooksey (R-LA), Sam Graves (R-MO), Van Hilleary (R-TN), Todd Tiahrt (R-KS), Richard Burr (R-NC), and Ileana Ros-Lehtinen (R-FL) introduced H.R. 5091, the Canceling Loans to Allow School Systems to Attract Classroom Teachers Act (CLASS ACT), which amended the Higher Education Act to provide discretionary loan forgiveness of up to $17,500 for math, science and special education teachers.

On Thursday, September 5, 2002, the Committee on Education and the Workforce considered H.R. 5091 in legislative session and reported it favorably, as amended, to the House of Representatives by voice vote. The Committee considered and adopted by voice vote the following amendments to H.R. 5091:

- Representative Graham (R-SC) offered a substitute amendment to make technical and clarifying changes to the legislation.

- Representative Kind (D-WI) offered an amendment to have the Secretary of Education notify local educational agencies eligible to participate in the Small Rural Achievement Program of the benefits provided by the teacher loan forgiveness program within H.R. 5091, and to encourage those agencies to notify their teachers of the program.

- Representative Holt (D-NJ) offered an amendment to set a priority for teacher loan forgiveness for those teachers teaching math or science, or special education teachers.

- Representative Miller (D-CA) offered an amendment to set a priority for teacher loan forgiveness for those teachers employed in local educational agencies that are determined by the State educational agency to have failed to make progress toward annual increases in the employment of highly qualified teachers as required by the Elementary and Secondary Education Act of 1965, for two consecutive years.

- Representative McCarthy (D-NY) offered an amendment to provide loan forgiveness for spouses of victims who died or became permanently and totally disabled as a result of the terrorist attacks on September 11, 2001. The amendment also provided for forgiveness of the consolidation loan debt of surviving spouses who consolidated their loans together with the victim, as well as parent loans if the child on whose behalf the loan was taken died or become totally and permanently disabled as a result of the September 11th attacks.

108th Congress

Hearings
First Session

On Tuesday, May 13, 2003, the Committee on Education and the Workforce held a hearing in Washington, D.C., on "The State of American Higher Education: What Are Parents, Students and Taxpayers Getting for Their Money?" The purpose of the hearing was to learn what institutions of higher education can and should be doing to assure the American public that the investment in higher education by a student, parent or taxpayer is one that will produce results and assist with lifelong career pursuits. Testifying before the Committee were Mr. Charles Miller, Chairman, University of Texas System, Board of Regents, Houston, Texas; Dr. Frank Newman, Director, The Futures Project, Brown University, Providence, Rhode Island; and Dr. Mary Ellen Duncan, President, Howard Community College, Columbia, Maryland.

On Thursday, July 10, 2003, the Committee on Education and the Workforce, Subcommittee on 21st Century Competitiveness, held a hearing in Washington, D.C., on "Affordability in Higher Education: We Know There's a Problem; What's the Solution?" The purpose of the hearing was to examine the effects of ever-rising college tuition and debate some of the possible solutions to this problem. Testifying before the Subcommittee were Dr. Sandy Baum, Professor, Skidmore College, Saratoga Springs, New York; Mr. Scott Ross, Executive Director, Florida Student Association, Tallahassee, Florida; Dr. Carol Twigg, Executive Director, Center for Academic Transformation, Troy, New York; Dr. Rolf Wegenke, President, Wisconsin Association of Independent Colleges and Universities, Madison, Wisconsin; and Dr. Patrick Kirby, Vice President and Dean of Enrollment Services, Westminster College, Fulton, Missouri.

On Tuesday, July 15, 2003, the Committee on Education and the Workforce, Subcommittee on 21st Century Competitiveness, held a hearing in Washington, D.C., on "Expanding Access to College in America: How the Higher Education Act Can Put College Within Reach." The purpose of this hearing was to examine the college access programs that currently exist at a national, state and local level; to hear recommendations for improvements in these programs; and to learn what provisions in the law may currently prohibit some postsecondary institutions from accessing resources that would enable them to work more closely with various student populations. Testifying before the Subcommittee were Dr. Richard Fonté, President, Austin Community College, Austin, Texas; Ms. Teri Flack, Deputy Commissioner, Texas Higher Education Coordinating Board, Austin, Texas; Mr. Mark Dreyfus, President, ECPI College of Technology, Virginia Beach, Virginia; Ms. Christina Milano, Executive Director, National College Access Network, Cleveland, Ohio; and Dr. Arnold Mitchem, President, Council for Opportunity in Education, Washington, D.C.

On Tuesday, July 22, 2003, the Committee on Education and the Workforce, Subcommittee on 21st Century Competitiveness, held a hearing in Washington, D.C., on "Consolidation Loans: What's Best for Past Borrowers, Future Students & U.S. Taxpayers?" The purpose of the hearing was to learn how the consolidation loan program fits into the mission of the Higher Education Act by increasing access and affordability to students pursuing postsecondary education, and to learn more about whether the program is fair for all borrowers. The first panel testifying before the Subcommittee included The Honorable Ralph Regula (R-OH), U.S. House of Representatives, Chairman, Subcommittee on Labor, Health and Human Services, and Education, Committee on Appropriations, Washington, D.C., and The Honorable Rosa DeLauro (D-CT), U.S. House of Representatives, Member, Subcommittee on Labor, Health and Human Services, and Education, Committee on Appropriations, Washington, D.C. The second panel testifying before the Subcommittee included Ms. Rebecca Wasserman, Vice President, United States Student Association, Washington, D.C.; Ms. June McCormack, Executive Vice President, Sallie Mae, Fishers, Indiana; Mr. Paul Wozniak, Managing Director and Manager, Education Loan Group, UBS Financial Services, Inc., New York, New York; Dr. Dallas Martin, President, National Association of Student Financial Aid Administrators, Washington, D.C.; and Mr. Barry Morrow, Chief Executive Officer, Collegiate Funding Services, Fredericksburg, Virginia.

On Thursday, September 11, 2003, the Committee on Education and the Workforce, Subcommittee on 21st Century Competitiveness, held a hearing in Washington, D.C., on "H.R. 3039, the Expanding Opportunities in Higher Education Act of 2003." The purpose of the hearing was to hear testimony regarding the provisions in H.R. 3039, introduced by Representative Tom Cole (R-OK) on September 9, 2003. Testifying before the Subcommittee were Dr. Donald E. Heller, Associate Professor, Center for the Study of Higher Education Policy, The Pennsylvania State University, University Park, Pennsylvania; Dr. Antonio Flores, President and Chief Executive Officer, Hispanic Association of Colleges and Universities, San Antonio, Texas; Mr. George Chin, University Director for Financial Aid, City University of New York, New York, New York; and Mr. David G. Moore, Chairman and Chief Executive Officer, Corinthian Colleges, Inc., Santa Ana, California.

Hearings
Second Session

On Wednesday, March 17, 2004, the Committee on Education and the Workforce held a hearing in Washington, D.C., on "Fiscal Responsibility and Federal Consolidation Loans: Examining Cost Implications for Taxpayers, Students, and Borrowers." The purpose of the hearing was to examine the consolidation loan program and how student lending issues fit within the broader goal of expanding access to low- and middle-income students pursing a postsecondary education. Testifying before the Committee were Ms. Cornelia M. Ashby, U.S. Government Accountability Office, Director, Education, Workforce and Income Security, Washington, D.C.; Mr. Titus M. Hamlett, Student, University of Maryland, Baltimore, Maryland; Dr. Tom S. Neubig, National Director, Quantitative Economics and Statistics, Ernst and Young LLP, Washington, D.C.; and Dr. Robert Shapiro, Chairman, Sonecon, LLP, and Senior Fellow, Brookings Institution and Progressive Policy Institute, Washington, D.C.

On Wednesday, May 12, 2004, the Committee on Education and the Workforce held a hearing in Washington, D.C., on "H.R. 4283, the College Access and Opportunity Act of 2004." The purpose of this hearing was to examine the provisions in H.R. 4283 and to provide an opportunity for Members of Congress to hear about provisions in the bill. Testifying before the Committee were Mr. Jim Boyle, President, College Parents of America, Washington, D.C.; Dr. Dallas Martin, President, National Association of Federal Student Aid Administrators, Washington, D.C.; Ms. Rebecca Wasserman, President, United States Student Association, Washington, D.C.; Dr. Charles Reed, Chancellor, California State University System, Long Beach, California; and Mr. Michael Grayer, Recent Graduate, Virginia College, Jackson, Mississippi.

On Wednesday, June 16, 2004, the Committee on Education and the Workforce held a hearing in Washington, D.C., on "H.R. 4283, the College Access & Opportunity Act: Are Students at Proprietary Institutions Treated Equitably Under Current Law?" The purpose of this hearing was to examine issues facing students attending eligible proprietary institutions of higher education. Testifying before the Committee were Dr. Dwight Smith, President and Chief Executive Officer, Sophisticated Systems, Inc., Columbus, Ohio; Mr. Andrew Rosen, President and Chief Operations Officer, Kaplan Inc., President, Kaplan College, Boca Raton, Florida; Dr. Alice Letteney, Director, University of New Mexico – Valencia, Los Lunas, New Mexico; Mr. Barmak Nassirian, Associate Director, American Association of Collegiate Registrars and Admissions Officers, Washington, D.C.; and Mr. David Moore, Chairman and Chief Executive Officer, Corinthian Colleges Inc., Santa Ana, California.

Legislative Action
First Session

On January 29, 2003, Representatives Joe Wilson (R-SC), John Boehner (R-OH), Howard P. "Buck" McKeon (R-CA), Johnny Isakson (R-GA), Todd Platts (R-PA), James Greenwood (R-PA), Patrick Tiberi (R-OH), Tom Cole (R-OK), Mark Souder (R-IN), Richard Baker (R-LA), Sam Graves (R-MO) and Heather Wilson (R-NM) introduced H.R. 438, the Teacher Recruitment and Retention Act of 2003, which amended the Higher Education Act to provide up to $17,500 in loan forgiveness for math, science and special education teachers.

On June 4, 2003, the Subcommittee on 21st Century Competitiveness considered H.R. 438 in legislative session and reported it favorably, as amended, to the Committee on Education and the Workforce by voice vote. The Subcommittee considered and adopted by voice vote the following amendment to H.R. 438:

- Representative McKeon (R-CA) offered a substitute amendment to make technical and clarifying changes to the legislation. Specifically, the amendment requires all teachers seeking increased loan forgiveness to be highly qualified under the No Child Left Behind Act.

109th Congress

Hearings

First Session

On Tuesday, March 1, 2005, the Committee on Education and the Workforce held a hearing in Washington, D.C., entitled, "Enforcement of Federal Anti-Fraud Laws in For-Profit Education." The purpose of this hearing was to examine the effectiveness and enforcement of Federal laws that exist to prevent fraud and abuse in for-profit education. Testifying before the Committee were The Honorable Maxine Waters (D-CA), Member of Congress, U.S. House of Representatives; Mr. Thomas A. Carter, Deputy Inspector General, Department of Education, Washington, D.C.; Mr. David Rhodes, President, The School of Visual Arts, New York, New York; Mr. Nicholas Glakas, President, Career College Association, Washington, D.C.; and Ms. Paula Dorsey, former Director of Admissions, Bryman College, Reseda, California.

On Friday, April 22, 2005, the Committee on Education and the Workforce held a hearing entitled, "College Access: Is Government Part of the Solution, or Part of the Problem?" This hearing served as a forum to discuss the effects of ever-rising college tuition costs and debate some of the possible solutions to this problem. Testifying before the Committee were Dr. Richard Vedder, Distinguished Professor of Economics, Ohio University, Athens, Ohio; and Dr. Donald Heller, Associate Professor and Senior Research Associate, Center for the Study of Higher Education, The Pennsylvania State University, University Park, Pennsylvania.

Legislative Action
First Session

On February 8, 2005, Representatives John Boehner (R-OH) and Howard P. "Buck" McKeon (R-CA) introduced H.R. 609, the College Access and Opportunity Act, to reauthorize the Higher Education Act (HEA) through fiscal year 2011.

The Subcommittee on 21st Century Competitiveness considered H.R. 609 in legislative session on Wednesday, July 13 and Thursday, July 14, 2005 and reported it favorably, as amended to the Committee on Education and the Workforce by a vote of 18-15. The Subcommittee considered and adopted the following amendments to H.R. 609:

- Representative McKeon (R-CA) offered a substitute amendment to make technical and clarifying changes to the legislation. Specifically, under title I of the bill, the amendment modified the provision on Student Speech and Association Rights; clarified the college cost reporting requirements; and added a prohibition for propaganda not authorized by Congress. The substitute amended title II of the bill to include gifted and talented as one of the learning styles on which teacher preparation programs should focus and amended reporting requirements to include additional information on the academic fields being studied by students participating in teacher preparation programs. Title III was amended by adding a new eligible institution to the Historically Black Graduate Institution (HBGI) program. Amendments to title IV included a reconfiguration of the reduction of origination fees that incorporated the mandatory guaranty fee while still reducing fees paid by students to 1 percent by 2010; clarified the prohibition of the ability for students to consolidate their loans while in-school in both the Federal Family Education Loan (FFEL) program and the

Direct Loan (DL) program; eliminated the ability of FFEL lenders to take advantage of the "super two step" loophole in the consolidation loan program; prospectively eliminated the ability of lenders to earn a minimum of 9.5 percent special allowance through the practice of "recycling"; clarified how much money a guarantor can retain from defaulted borrowers through consolidation versus rehabilitation of a borrower's defaulted loan; amended the date for Perkins loan Federal Capital Contributions recovery; established eligibility for competency based programs for title IV purposes; removed the reporting requirements on transfer of credit; and added due process language for program reviews and accreditation hearings. In addition, the substitute amendment made minor changes to the Education of the Deaf Act, by linking the accountability provisions of the No Child Left Behind Act with the elementary and secondary schools operated by Gallaudet University. The amendment was adopted by voice vote.

- Representative Fortuno (R-PR) offered an amendment to maintain the single definition of an institution of higher education, but exempt titles III and V of the Higher Education Act from those funds for which for-profit institutions would be eligible to compete. The amendment was adopted by a vote of 22-10.

- Representative Foxx (R-NC) offered an amendment to prohibit the Department of Education from implementing the proposed student unit record database. The amendment was adopted by voice vote.

- Representative Wu (D-OR) offered an amendment to allow for the development of dual degree programs that allow students to earn two undergraduate degrees, one in education and the other in the subject of the student's choosing. The amendment was adopted by voice vote.

- Representative Price (R-GA) offered an amendment to authorize the Teacher Incentive Fund, which will provide funds to states that want to develop merit pay initiatives. The amendment was adopted by a vote of 17-15.

- Representative Keller (R-FL) offered an amendment to waive Pell Grant repayment obligations for students who withdraw from their institution of higher education due to Federally-declared natural disasters. The amendment was adopted by voice vote.

- Representative Keller (R-FL) offered an amendment to prohibit individuals who are subject to an involuntary civil commitment upon completion of a period of incarceration for a sexual offense from being eligible for a Pell Grant. The amendment was adopted by voice vote.

- Representative Keller (R-FL) offered an amendment to raise the maximum authorized Pell Grant to $6,000. The amendment was adopted by voice vote.

- Representative Johnson (R-TX) offered an amendment to limit a student's Pell Grant to 16 semesters (8 years) or 24 quarters (6 years). The amendment was amended by unanimous consent to limit a student's Pell Grant to 18 semesters (9 years) or 27 quarters (7 years). The amendment was adopted by voice vote.

- Representative Castle (R-DE) offered an amendment to strike the repeal of the 90/10 rule and move the rule to the Program Participation Agreement and further define what is included in the 10 percent part of the ratio. The amendment was adopted by voice vote.

- Representatives Porter (R-NV) and McCarthy (D-NY) offered an amendment to modify the existing Child Care Loan Forgiveness discretionary program to include loan forgiveness for nurses and other occupations deemed by the Secretary to be areas of national need. The amendment was adopted by voice vote.

- Representative McCollum (D-MN) offered an amendment to direct the Secretary of Education to commission a study on fraud and abuse in the title IV student financial aid programs. The amendment was adopted by a vote of 33-0.

The Committee on Education and the Workforce considered H.R. 609 in legislative session on Wednesday, July 20, Thursday, July 21 and Friday, July 22, 2005 and reported it favorably, as amended, to the House of Representatives, by a vote of 27-20, 1 present. The Committee considered and adopted the following amendments to H.R. 609:

- Representative Boehner (R-OH) offered a substitute amendment to make technical and clarifying changes to the legislation. Specifically, under title I of the bill, the substitute clarified that degrees offered by Rabbinical schools are recognized as equivalent to the baccalaureate degree and Rabbinical schools are able to participate in the title IV student financial aid programs; and improved the fraud and abuse protections for students that receive title IV aid enrolled in foreign schools. In title II, the substitute added language that allowed states to further evaluate the content knowledge of potential teachers in the subject matter they will be teaching; allowed funds to be used to increase the supply of highly qualified math, science and special education teachers and the faculty needed to train them; clarified that funds can be used to help recruit high achieving students, including those who are bilingual, into the field of early childhood education; and allowed institutions of higher education to develop articulation agreements to make it easier for existing early childhood educators to obtain a bachelor's degree. In title III, the substitute included a provision for the Tribally Controlled Colleges and Universities and the Alaska-Native and Native-Hawaiian Serving Institutions to use grant funds to support instruction in tribal governance and tribal public policy. In title IV, the substitute clarified that individuals who are convicted of fraud and abuse within the title IV student aid programs are no longer eligible for such aid until they pay back to the Federal government the aid received through fraudulent means. Additionally, the substitute specifically addresses the needs of homeless youth in the TRIO program and GEAR UP and clarifies that TRIO programs should include services to address the transition of veterans into math and science fields. The substitute adds language to ensure that a loan cannot be transferred into a qualifying tax exempt bond to obtain 9.5 percent special allowance. The substitute also includes a provision to provide the opportunity for active duty members of the Armed Services who are out of school to obtain a student loan deferment of up to three years. The substitute consolidates and clarifies consumer empowerment information by establishing a central location for the collection of such information, designated as the College Opportunities On-Line (COOL) website operated by the Department of Education. The substitute also includes foreign language teachers and U.S. government employees who are in positions that regularly require the use of a foreign language in the discretionary national need loan forgiveness program. The substitute amendment reflected the amendments made to H.R. 509 and H.R. 510, the reauthorization bills for title VI and VII of the Higher Education Act, respectively. Under title VI of the bill, the substitute clarifies that when the members of the International Advisory Board assess activities of centers or programs supported by title VI funds, the materials that are used to make assessments must be those submitted by grantees to the Department of Education as part of the grant requirements. Under title VII of the bill, the substitute adds language to prohibit funds from the Fund for the Improvement of Postsecondary Education (FIPSE) from being spent on students who are not eligible for title IV aid; and allows FIPSE funds to be used to support students who are fulfilling internships in disadvantaged communities. The substitute renames the "Education of the Deaf Act of 1986" as the "Gallaudet University and National Technical Institute for the Deaf Act." The amendment was adopted by voice vote.

- Representative Castle (R-DE) offered an amendment to clarify for-profit institutions cannot automatically compete for other Federal programs outside of the Higher Education Act. The amendment was adopted by voice vote.

- Representative McCarthy (D-NY) offered an amendment to require that reports of graduation rates under the college cost section of the bill must indicate whether completion or graduation rates are from two- or four-year institutions, and if the rates are from a two-year program of instruction, they be accompanied by the percentage of students who transferred to a four-year institution. The amendment was adopted by unanimous consent.

- Representative McCarthy (D-NY) offered an amendment to clarify that the College Affordability Index must be presented next to an institution's tuition and fees on the College Opportunities On-Line (COOL) website. The amendment was adopted by unanimous consent.

- Representatives Hinojosa (D-TX), Grijalva (D-AZ), Fortuno (R-PR), and Tiberi (R-OH) offered an amendment to create a new program for graduate programs at Hispanic Serving Institutions (HSIs). The amendment was adopted by a vote of 46-2.

- Representative Wu (D-OR) offered an amendment to establish or expand dual enrollment programs at institutions of higher education with funds from the Fund for the Improvement of Postsecondary Education (FIPSE). The amendment was adopted by unanimous consent.

- Representatives Tiberi (R-OH) and Barrow (D-GA) offered an amendment to clarify that programs that reduce postsecondary remediation rates and improve degree attainment rates for low-income students and former high school dropouts are eligible for funds under FIPSE. The amendment was adopted by voice vote.

- Representative Price (R-GA) offered an amendment to direct the Secretary of Education to study the indebtedness of medical school graduates. The amendment was adopted by voice vote.

- Representative Davis (D-IL) offered an amendment to direct the Secretary of Education to study the graduation rates of minority male students. The amendment was adopted by voice vote.

- Representatives Petri (R-WI) and Boehner (R-OH) offered an amendment to provide borrowers a choice between a fixed interest rate and a variable interest rate on consolidation loans. The amendment was adopted by a vote of 26-20.

- Representative Petri (R-WI) offered an amendment to reduce insurance and reinsurance rates for lenders and guarantors, respectively. The amendment was adopted by voice vote.

- Representatives Kildee (D-MI) and Van Hollen (D-MD) offered an amendment to reform the school as lender initiative in the FFEL program. The amendment was adopted by unanimous consent.

- Representative Grijalva (D-AZ) offered an en bloc amendment to expand the discretionary national need loan forgiveness program to include librarians, teachers of bilingual education, first-responders, and child welfare workers. The amendment was adopted by voice vote.

- Representative Musgrave (R-CO) offered an amendment to exempt small business assets from being included in the disclosure of assets for the purposes of need analysis. The amendment was adopted by a vote of 28-18.

- Representatives Osborne (R-NE) and Holt (D-NJ) offered an amendment to make community colleges eligible to participate in the year-round Pell Grant program. The amendment was adopted by voice vote.

- Representative Boustany (R-LA) offered an amendment to consider children who are adopted after age 13 to be included in the "special circumstances" discretion allowed for school financial aid officers in need analysis determinations. The amendment was adopted by voice vote.

- Representative Musgrave (R-CO) offered an amendment to ensure that a student's Federal student aid is not impacted by his or her participation in a State choice program. The amendment was amended by unanimous consent by Representative Musgrave by changing "entity" to "State" and adopted by voice vote.

- Representative Foxx (R-NC) offered an amendment to increase accountability in the TRIO programs. The amendment was adopted by a vote of 27-19.

- Representative Castle (R-DE) offered an amendment to further define the 90/10 ratio and increase the penalties for non-compliance. The amendment was adopted by voice vote.

- Representative Platts (R-PA) offered an amendment to require colleges and universities that are in the top 25 percent of those in their sector to exceed the College Affordability Index to establish college cost task forces. The amendment was adopted by voice vote.

- Representative Ehlers (R-MI) offered an amendment to require accrediting agencies to monitor the growth of distance education programs. The amendment was adopted by unanimous consent.

- Representatives McKeon (R-CA), Ehlers (R-MI) and Kind (D-WI) offered an amendment to provide scholarships to the top high school seniors to pursue undergraduate and graduate degrees in math and science, allow interest repayment on loans for math and science studies, and create education councils on math and science. The amendment was adopted by voice vote.

- Representatives McKeon (R-CA), Ryan (D-OH), and Tierney (D-MA) offered an amendment to authorize the non-mandatory cost provisions of the Advisory Committee on Student Financial Aid report on FAFSA simplification. The amendment was adopted by voice vote.

- Representative Van Hollen (D-MD) offered an amendment to continue the Experimental Sites initiative and experiments. The amendment was amended by unanimous consent by clarifying institutional experiments in the Experimental Sites initiative would continue unless the Secretary determines the institution's participation has not been successful. The amendment was adopted by voice vote.

- Representative McKeon (R-CA) offered an amendment to ensure accreditors take into account an institution's religious mission during the institutional review. The amendment was adopted by voice vote.

- Representative Andrews (D-NJ) offered an amendment to require institutions of higher education to disclose fire safety policies and procedures to enrolled and prospective students. The amendment was adopted by a vote of 35-13.

- Representative Andrews (D-NJ) offered an amendment to modify the return of title IV provisions for clock hour institutions. The amendment was adopted by voice vote.

- Representative Wu (D-OR) offered an amendment to establish a Sense of the Committee regarding textbook costs. The amendment was adopted by voice vote.

- Representative Kind (D-WI) offered an amendment to direct the Secretary of Education to do a study on adult learners attending institutions of higher education. The amendment was adopted by voice vote.

The Committee on Education and the Workforce filed the Committee Report on H.R. 609 with the House of Representatives on September 22, 2005.

The Committee on Education and the Workforce considered the Committee Print in legislative session on Wednesday, October 26, 2005 and approved it as amended for transmittal to the Committee on the Budget. The Committee considered and adopted the following amendment to the Committee Print:

- Representative Boehner (R-OH) offered a substitute amendment to make technical and clarifying changes to the legislation. Specifically, the amendment added a definitions section to the higher education relief provisions included in the Committee Print.

- Representative Ehlers (R-MI) offered an amendment to direct the Secretary of Education to require the National Academy of Sciences to conduct a study on the quality of distance education programs as compared to campus-based education programs. The amendment was adopted by voice vote.

The Committee on Education and the Workforce filed the Committee Report on the Committee Print with the Committee on the Budget on October 28, 2005.

Below is a summary of the Committee Print.

SUMMARY

Subtitle B – Higher Education

Short Title; Table of Contents

Section 2101 gives the short title of the Committee Print as the Higher Education Budget Reconciliation Act of 2005 and sets forth the table of contents.

References; Effective Date

Section 2102 specifies that the provisions of the Committee Print amend the Higher Education Act of 1965, and makes these amendments (except as otherwise provided in the legislation) effective upon enactment of the legislation.

50 Percent Rule

The Committee Print repeals the 50 percent rule for telecommunications courses.

Federal Family Education Loan (FFEL) & Direct Loan (DL) Programs

The Federal Family Education Loan (FFEL) program is reauthorized through fiscal year 2011 and the insurance provisions are reauthorized through fiscal year 2012. The Direct Loan (DL) program is also reauthorized through fiscal year 2011. The Committee Print moves the administrative portion of the section 458 account from a mandatory spending program to a discretionary program. The portion of section 458 that provides administrative fees to the guaranty agencies will remain mandatory; however, the funding caps set in the law will be removed so that guaranty agencies will receive account maintenance fees that equal 0.10 percent of their loan volume.

The Committee Print increases the annual maximum loan limits in both the FFEL and DL programs for first and second year college students from $2,625 to $3,500 and from $3,500 to $4,500, respectively, beginning with loans issued on or after July 1, 2007. The Committee Print also clarifies that underlying loans that have been wrapped into a consolidation loan will still count against the borrower's aggregate loan limits. Finally, the Committee Print increases the annual unsubsidized graduate loan limits in both the FFEL and DL programs from $10,000 to $12,000.

The Committee Print retains the variable rate formula for both the FFEL and DL programs and repeals the change in Stafford loan and PLUS loan interest rates scheduled for July 1, 2006.

Beginning on July 1, 2006, the Committee Print changes the interest rates on consolidation loans in both the FFEL and DL programs to offer the borrower a choice between a fixed interest rate or a variable interest rate. The fixed interest rate is equal to the 91-day Treasury bill + 3.3 percent, capped at 8.25 percent. The variable interest rate is equal to the 91-day Treasury bill + 2.3 percent, capped at 8.25 percent. The fixed interest rate for PLUS loans is equal to the 91-day Treasury bill + 4.1 percent, capped at 9.0 percent. The variable interest rate for PLUS loans is equal to the 91-day Treasury bill + 3.1 percent, capped at 9.0 percent. Under the Committee Print, borrowers will be assessed a one time consolidation offset fee on either option of one percent.

The Committee Print retains a provision from current law that limits the number of times a borrower can consolidate his loans; however, the Committee Print does allow a borrower to move into the DL program for purposes of avoiding default by utilizing income contingent repayment. The Committee Print also eliminates in-school consolidation in the FFEL and DL programs and closes a loophole in the consolidation loan program that permits borrowers to re-consolidate by switching between the FFEL and DL programs. The Committee Print eliminates the single holder rule but requires that a borrower notify the holder of his loans of his intent to consolidate if all of the loans are held by one lender. In addition, the Committee Print requires the lender to provide the borrower with more information, such as the benefits the borrower could lose by consolidating, when the borrower requests to consolidate his loans. Taken together, these two reforms give greater flexibility for borrowers to choose their consolidation lender and ensure they receive all the information about the advantages and disadvantages of consolidating their loans.

The Committee Print makes several conforming and technical amendments within the special allowance section. The Committee Print requires lenders to rebate to the Federal government their "floor income." Floor income is a benefit to lenders that takes place when the fluctuating guaranteed rate of return for lenders is *lower* than the fluctuating borrower interest rate. During this period, current law permits the lender to keep the higher amount being paid by the borrower, rather than just retaining the lender's guaranteed rate of return. The Committee Print requires the lender only receive its guaranteed rate of return and rebate to the Federal government the difference between lender yield and the borrower's interest rate, when the borrower's rate is higher.

The Committee Print requires lenders with over 90 percent of their student loan portfolio in consolidation loans to pay a 1.30 percent annual portfolio fee, rather than the currently authorized 1.05 percent annual portfolio fee.

The Committee Print permanently closes the 9.5 percent subsidy by extending the Taxpayer-Teacher Protection Act (P.L. 108-409) and shutting down the ability of lenders to recycle additional loans to gain the minimum 9.5 percent special allowance.

The Committee Print requires guaranty agencies to charge the one percent Federal default fee on loans disbursed on or after July 1, 2006. This fee is authorized in current law, but the guaranty agencies have the ability to waive the fee. The new required fee will be deposited in the guaranty agencies' Federal Student Loan Reserve fund. The Committee Print also phases down the origination fee charged on FFEL Stafford loans from three percent to zero percent over the course of the reauthorization. The Committee Print phases down the origination fee required on Direct Loans from the statutorily required four percent to one percent by 2010. The Committee Print also prohibits the Secretary of Education from waiving this fee as a repayment incentive and prohibits any sort of repayment incentive to be given prior to the borrower entering repayment. By 2010, students will only be charged a one percent fee on their student loans in both the FFEL and the DL programs.

The Committee Print increases the origination fee lenders pay on all loans from 0.50 percent to one percent for loans disbursed after July 1, 2006.

To prevent against further fraud and abuse within the student loan program, the Committee Print requires the disbursement of Federal loan funds to students attending foreign schools to be sent to the institution.

The Committee Print aligns the DL extended repayment plan with the FFEL extended repayment plan. The Committee Print also requires a borrower to take into account their spouse's income when determining income for purposes of the income contingent repayment plan. The Committee Print creates a new interest only repayment plan under which the borrower would only pay the interest on the loan for the first two years of repayment. This plan was created in both the FFEL and Direct Loan programs.

The Committee Print adds a new deferment option for student loan borrowers (either in the FFEL, DL or Perkins programs) that are serving in the U.S. Armed Forces.

The Committee Print authorizes additional areas for discretionary loan forgiveness in both the FFEL and DL programs, including early childhood educators, nurses, foreign language specialists, librarians, bilingual educators, first responders in low income areas, child welfare workers, speech language pathologists and other areas of national need as designated by the Secretary.

The Committee Print increases risk sharing for lenders and guarantors in the FFEL program by lowering the lender insurance from 98 percent to 96 percent. The Committee Print maintains guarantor reinsurance at the 95 percent. The Committee Print grants 100 percent insurance for claims with respect to loans for which it is determined that the borrower, without the lender's knowledge, provided false information when the loan was made that caused the loan to be ineligible for interest benefits under the Federal loan programs. The Committee Print also tightens the requirements on the exceptional performance program and lowers the insurance from 100 percent to 98 percent. The Committee Print lowers the amount guarantors are permitted to keep as collection costs from 18.5 percent to 10 percent if the borrower consolidates a defaulted loan rather than pursuing rehabilitation. In addition, the Committee Print imposes a limit of 45 percent on the amount of a guarantor's collections portfolio that can be in consolidation loans. The Committee Print lowers the amount a guarantor or collection agency can keep on the collection of defaulted loans from 23 percent of borrower payments to 20 percent of borrower payments. The Committee Print also lowers the number of payments for a borrower to rehabilitate the loan from 12 to 9 and infuses more requirements of financial literacy into borrower education initiatives.

The Committee Print adds a provision that requires parents to repay loan funds obtained by fraud before any additional funds can be lent if the parents are convicted of fraud in the student loan programs.

The school as lender program provisions are reformed to clarify that schools can only lend to graduate students and any profits made by the school through the school as lender program must be put toward need based aid.

To ease the burden on student loan borrowers that are already facing formidable challenges due to a disability, the Committee Print provides that if the Veterans Administration or the Social Security Administration determines an individual to be totally and permanently disabled, the Secretary of Education shall accept that determination and the borrower need not provide the Secretary of Education with additional paperwork for the discharge of student loan obligations.

The Committee Print also eliminates the requirement that a forbearance agreement be in writing in the FFEL and DL programs, and instead requires that a notice of forbearance agreement be sent to the borrower and kept in the borrower's file.

Teacher Loan Forgiveness

The Committee Print makes permanent an increase in the allowable maximum loan forgiveness for math, science, special education teachers and reading specialists in the FFEL and the DL programs from $5,000 to $17,500. This loan forgiveness was originally included for one year in the Taxpayer-Teacher Protection Act of 2004 (P.L. 108-409). This increased loan forgiveness is available for highly qualified math, science and special education teachers and reading specialists teaching in high need, title I schools. The Committee Print also permits private school teachers that are exempt from state "highly qualified" requirements to be eligible for the loan forgiveness.

Need Analysis

The Committee Print simplifies and expands the eligibility of families to utilize the Simplified Needs Test for need analysis to include those already receiving benefits under a means-tested Federal benefit program, which is defined in the Committee Print. The Committee Print also authorizes the Secretary to regularly evaluate the impact of these eligibility guidelines and ensure that the Simplified Needs Test continues to be targeted to the maximum number of low- and moderate-income students as possible.

The Committee Print calls for improvements to the paper and electronic Free Application for Federal Student Aid (FAFSA). The Committee Print directs the Secretary to permit applicants to complete their FAFSA in the three years prior to enrollment in order to obtain a non-binding estimate of the family contribution. The Committee Print also authorizes an evaluation by the Secretary to determine differences between initial, non-binding early estimates and the final financial aid award made to the student. Additionally, the Committee Print authorizes the Secretary to develop and use a simplified paper application form to be known as the EZ-FAFSA for applicants who meet the requirements of eligibility for the Simplified Needs Test. The Secretary shall annually report to Congress on the impact of the digital divide on students completing applications for Federal student aid and also report on the steps taken to phase out the paper form as barriers to the electronic form are eliminated. In addition to the EZ-FAFSA, the Secretary shall develop and use a simplified electronic application with reduced data elements and state data that only applies to the applicant.

For all forms, the Secretary shall ensure that data collection complies with privacy requirements and that all forms developed shall maintain reasonable and appropriate administrative, technical, and physical safeguards to ensure the integrity and confidentiality of the information.

The Committee Print authorizes a streamlined reapplication process for students and further encourages the Secretary to work to reduce the number of data elements on the FAFSA. The Secretary shall encourage States to take such steps as necessary to encourage the use of simplified application forms and conduct an annual review to determine which forms and data items the States require to award need-based State aid to applicants.

The Committee Print makes clear that the FAFSA, in whatever form it is produced, shall be produced, distributed, and processed by the Secretary and no parent or student shall be charged a fee for the collection, processing or delivery of financial aid through the use of the FAFSA.

The Committee Print clarifies that a student who is an orphan, in foster care, or is a ward of the court, or was in foster care or a ward of the court until the age of 18, is considered an independent student. The Committee Print also treats active duty members of the military as independent students for the purposes of need analysis. The Committee Print clarifies that a student's status as a ward of the court prior to 18 years of age, a student's status as an individual adopted at or after age 13, or a student's status as a homeless or unaccompanied youth can be considered as a "special circumstance" for the purposes of awarding title IV Federal financial aid.

The Committee Print increases the dependent student work protection allowance from $2,200 to $3,000. The Committee Print excludes distributions from eligible 529 plans from counting as income or a resource and equalizes the treatment of both tuition savings plans and pre-paid tuition plans in the need analysis formula. Under the Committee Print, plans will be treated as assets of the parents for dependent students and assets of the student for independent students. The Committee Print provides for an exception to be made to the need analysis formula for families that own small businesses that employ less than 100 full-time equivalent employees. The Committee Print also provides for a clarification to the need analysis formula for students who receive a stipend from their State as a replacement for the direct appropriation of funds to the institution of higher education.

Definition of Eligible Program

The Committee Print recognizes that an eligible program can include an instructional program that utilizes direct assessment of student learning, in lieu of credit or clock hours.

Distance Education

The Committee Print amends the definition of distance education as an eligible program for title IV student aid purposes as a program that is offered in whole or part through telecommunications, if provided by an accredited institution of higher education, other than a foreign school. The accreditor that accredits the institution must have the evaluation of distance education within its scope. The Committee Print eliminates the connection between correspondence and telecommunications for the purposes of the repeal of the 50 percent rule and title IV program participation.

Student Eligibility

The Committee Print amends various provisions concerning student eligibility. Students who are convicted of title IV program fraud are required to repay the funds they fraudulently obtained to the Secretary or the holder of the loan. Second, individuals who are subject to involuntary civil commitments upon completion of a period of incarceration for sexual offenses are not eligible for student loans. Third, the Committee Print clarifies eligibility for students from the Freely Associated States for Pell Grants.

The Committee Print authorizes the Secretary of Education to work with the Secretary of the Treasury to provide for an IRS data match.

The Committee Print clarifies that the suspension of eligibility for drug offense convictions occurs only for those students enrolled in an institution of higher education and receiving title IV aid when convicted of their offense. The Committee Print also requires the institution of higher education to inform students of the possibility of suspension of eligibility for title IV aid for drug related offenses.

Institutional Refunds

The Committee Print allows an institution of higher education to contact a student who may be eligible for a late disbursement of loan funds and get the borrower's agreement before disbursing the funds. The Committee Print also provides an institution with 45 days from the date of determination that a student has withdrawn to return loan funds.

College Access Initiative

The Committee Print creates a new section, the College Access Initiative, that is intended to provide outreach and better information regarding student financial aid and access programs to students and their families. The College Access Initiative requires guaranty agencies to gather information on programs and student aid available in the State in which they are designated. That information must be made available to the public and reported to the Secretary to establish a directory of programs and provide for access to the information through the Internet and any other means determined by the Secretary. Each guaranty agency shall establish a plan to gather and disseminate the information required and the plan shall include how the agency will undertake the task, how it will publicize the information gathered, and how it will coordinate with other entities in the State. Information collected by the guarantors will include resources on college planning, career preparation and paying for college. Guarantors may utilize funds from their operating fund and if any funds remain, they may use funds from their former restricted accounts.

Cancellation of Student Loan Debt for Survivors of Victims of the September 11, 2001 Attacks

The Committee Print provides for cancellation of student loan debt for survivors of victims of the September 11, 2001 terrorist attacks.

Independent Study on Distance Education

The Committee Print requires the Secretary of Education to direct the National Academy of Sciences to conduct an evaluation of the quality of distance education programs as compared to campus-based education programs.

Regulatory Relief

The Committee Print provides the Secretary of Education with a waiver to ensure that financial aid administrators re-examine the calculation of the expected family contribution (EFC) for students who were affected by the Gulf Coast hurricanes, Katrina and Rita. The Committee Print also provides the Secretary with a waiver to expand the distance education demonstration program for institutions of higher education that were affected by the hurricanes.

The Committee Print authorizes the Secretary of Education to waive the continuous service requirement needed for teachers to be eligible for the teacher loan forgiveness program in the FFEL and DL programs.

Waiver of Repayment of Student Aid Funds

The Committee Print waives the requirement that affected institutions and students return title IV funds. This waiver includes grant funds and loan funds received by students attending institutions affected by the Gulf Coast hurricanes.

Discharge of Student Loan Funds

The Committee Print discharges the student loan funds received by students who were attending schools that had to cease operations due to the Gulf Coast hurricanes. The Secretary of Education will reimburse lenders in the FFEL program and institutions in the Perkins loan program for the funds that were discharged. Funds made available through the DL program will also be discharged. The loans that are discharged will not be counted against a student's annual or aggregate loan limits.

Deferment of Student Loans

The Committee Print provides for a six month deferment for any student loan borrower who was living in or working in an area affected by Hurricanes Katrina and Rita. Student loan borrowers will be able to defer any payment of principal for 6 months. In addition, the Secretary of Education will pay the interest on all loans in the FFEL or Perkins programs and interest will not accrue on loans in the DL program.

Information Dissemination

The Committee Print requires the Secretary of Education to make an extra effort to notify families that are eligible for means-tested Federal benefit programs that they may also be eligible for the maximum Pell Grant.

COMMITTEE VIEWS

In 1965, the Higher Education Act was established as a means to help low- and middle-income students gain access to college. Since that time, the Federal government has invested billions of dollars into the student loan programs. Funding for higher education has grown dramatically in recent years. According to information from the College Board in its *2005 Trends in Student Aid* report, funds for Federally supported student aid programs have increased by 141 percent in the last decade. This includes increases in Pell Grants, Supplemental Educational Opportunity Grants, Federal Work Study, support for veterans and other military personnel, and student loans. As the cornerstone of the need-based Federal student aid programs, the increases in the Pell Grant program are striking. Since Republicans gained control of the House of Representatives in 1995, total Pell Grant funding has doubled, increasing from $6.2 billion to $12.4 billion for fiscal year 2005. The maximum Pell Grant award has increased from $2,340 to $4,050 in that same period. In fiscal year 2005 alone, the Federal government devoted approximately $70 billion in direct student aid to college students all across the country that had the dream of attending one of America's college or universities.

The Committee is proud of the financial commitment Congress has demonstrated in recent years toward higher education. This support will continue. However, the Committee is concerned that the value of this investment may be diminished by a lack of market discipline, meaningful competition, and consumer awareness. While the Committee believes strongly that the Federal government needs to continue its investment in higher education, we also need to ensure that Federal dollars are being spent wisely. Federal dollars spent on higher education must provide assistance for low- and middle-income students in an efficient and effective manner that reflects the goals of the Higher Education Act – to expand college access – and the goals of fiscally responsible leadership – to protect the interests of taxpayers and act as good stewards of the Federal budget. Unless both these priorities are reflected in the Federal higher education investment, it is the American taxpayers, some of whom do not have the opportunity to attain a postsecondary education, that are forced to bear the brunt of wasteful spending and misused dollars.

The reforms included in this package reflect the ideals of the Committee to reduce excess subsides from the student loan programs, increase program efficiency, build on economies of scale and ensure that students continue to have access to needed resources to achieve their higher education aspirations.

Student Assistance

Through the Higher Education Act, the Federal government is providing more than $70 billion in direct financial aid to students in fiscal year 2005 alone. Those funds, provided through Pell Grants, student loans, and campus-based and other financial aid programs, are meant to help defray the cost of college and level the playing field so low- and middle-income students can access higher education opportunities like those available to higher income students.

The Committee is not convinced that the current structure of the student loan programs is the most efficient structure. In fact, the reforms reflected in the Committee Print demonstrate that some of the financial burdens placed on the American taxpayer are unnecessary. The Committee Print reduces this burden by $14.5 billion.

American taxpayers are already shouldering a tremendous higher education cost burden. In addition to the more than $70 billion annually in direct Federal student aid, Federal dollars support institutional aid, research, and a wide-range of programs outside the scope of the Higher Education Act but still involving colleges and universities. In addition, a significant portion of

State revenues are devoted to higher education subsidies. And even after all this taxpayer support, students and families must also contend with annual tuition and fee increases that grow at double-digit rates and squeeze family budgets to the breaking point.

The Committee believes the reforms in the Committee Print will encourage providers in the student loan programs to reduce defaults and operate more efficiently. The Committee also believes that students will be better off over the long-term with the reforms made in this package. This bill will reduce fees paid by students and increase the ability for students to borrow Federal loans - loans that have more benefits to the borrower than any other type of consumer loan. In addition, by instituting proposals that harness the power of the market, both students and taxpayers will benefit in the end.

The Committee Print demands greater accountability, efficiency, and effectiveness from the existing student aid programs. The bill continues a long-standing effort to reduce red tape, eliminate unnecessary bureaucracy, and examine the underlying causes that drive up the costs of the student aid programs. By reassessing current investments in higher education, the Committee believes the reforms contained in the Committee Print will make better use of the significant Federal investment in higher education by expanding college access while simultaneously protecting the interests of all American taxpayers who are providing the resources.

Stafford Loan Programs

The Federal student loan system is comprised of two separate student loan programs – the Federal Family Education Loan (FFEL) program and the Direct Loan (DL) program. In the FFEL program, private lenders partner with the Federal government to disburse the capital. Borrowers then deal with their private lender as the loan moves through its life cycle. Lenders can be banks, stand-alone student loan companies or non-profit agencies. Guaranty agencies work with the lenders and the borrowers to ensure that the borrowers stay out of default and administer the Federal guarantee to the lenders if the borrower does default on the loan. All government partners in the FFEL program work to provide borrowers with customer service and financial education with the goal of avoiding borrower defaults. Secondary markets, which are generally non-profit state agencies/organizations that act as lenders, purchase loans from other lenders to free up capital and also originate their own loans, often offering significant cuts to the borrower interest rate or favorable repayment terms.

The main difference between the FFEL program and the DL program is that in the DL program, the capital is disbursed directly from the Federal Treasury, via the Department of Education, to the schools on behalf of the student. Borrowers then deal with the Department of Education and its contractors for customer service.

Over the years, the two programs have competed against each other and the participants in the FFEL program competed against themselves. This competition has dramatically improved the level of service being offered in both programs and lowered the cost of the programs. In addition, because the two student loan programs were created at different times, the borrower benefit offerings in the programs differ. The Committee Print took steps toward equalizing the two student loan programs to ensure that borrowers did not have different benefits in one program over the other program.

The Committee entered into the Higher Education Act reauthorization with the goal of making it easier for America's young people to access and persist in completing some form of higher education. A primary effort has been made to reevaluate the current investment and determine whether program priorities are in need of realignment. The Committee specifically identified the pressing need to address the explosion in subsidies directed to college graduates; the dramatic growth in the cost of the consolidation loan program, for example, poses a very real threat to the ability of Congress to direct future aid increases to low- and middle-income students who have not yet had the opportunity to pursue a college education. The Committee has developed a reasonable, sustainable loan structure that will continue to serve college graduates working to repay their loans, while refocusing the primary investment on current and future students. The Committee has met these goals by passing a number of reforms to both the FFEL program and the DL program that will increase loan limits, significantly decrease fees paid by borrowers and better align the borrower benefits offered in the FFEL and DL programs. The Committee offers these additional benefits to borrowers through common sense reforms that curb the excess funds being spent unwisely in the student loan programs. The American taxpayer should not be asked to continue to pay for these unnecessary expenditures in the programs. The reforms included in the Committee Print will better equalize the Stafford loan programs and also put both programs on a more solid financial foundation that will allow the program to operate efficiently for years into the future.

Borrower Benefits

The Federal student loan programs offer unparalleled borrower benefits. Students are able to access Federally guaranteed loans at below-market interest rates without collateral or credit checks. Lower income borrowers who qualify for the subsidized Stafford Loan program are not charged interest on their loans while in school, in their six month grace period following graduation, or in periods of loan deferment. Borrowers can access a variety of repayment options, and the already low fees in the programs are lowered even further under the Committee Print. However, the Committee believes inequities between the FFEL and DL programs must be corrected so that all student loan borrowers, regardless of which loan program their school has chosen, have access to the same level of borrower benefits.

In the area of loan fees, the Committee believes the current fee structure is unnecessarily complex, and unevenly applied to borrowers. For example, under current law, the fees paid by the borrowers can vary lender by lender or between student loan programs. The Higher Education Act requires that the Secretary charge a four percent origination fee for loans originated in the DL program and lenders charge a three percent origination fee in the FFEL program, plus an optional one percent fee to be charged by guarantors. Thus, under a strict reading of the law, borrowers in both programs are to be charged a total of four percent in fees upon origination of their Federal student loans. Congress originally added most of these fees as a temporary cost saving measure during the Omnibus Budget Reconciliation Act of 1981. These fees were never intended to be a permanent addition to the Higher Education Act.

Since that time, a number of changes have been made to the origination fees charged on Federal student loans. In the DL program, beginning under the Clinton Administration, the Department of Education interpreted the origination fee provision to permit DL to only charge a three percent fee. This practice has continued. The program then further discounts the origination fee by offering an up-front rebate of 1.5 percent of the loan principal purported to be a repayment incentive. When a borrower enters repayment, if the borrower does not make 12 on-time payments, the fee is capitalized back onto the principal of the loan. Only about 24 percent of students in the DL program are actually able to meet the 12 on-time payments requirement. In practice, this policy results in some DL borrowers paying a 1.5 percent fee and others are paying a three percent fee.

In the FFEL program, the government must receive a three percent origination fee on loans, but the statute is not specific as to who pays that fee – lenders or borrowers. Thus, similar to the uneven borrower treatment in DL, some borrowers in the FFEL program will pay the full three percent fee, while others pay a discounted origination fee because some or all of the fee will be paid by the lender on the borrower's behalf. The FFEL borrower also may pay a fee of one percent of the loan to the guaranty agency to be deposited into the guarantor's Federal Reserve fund; however, guaranty agencies currently have the authority to waive charging this fee to the student. The funds deposited into the Federal Reserve fund are property of the Federal government, and the Committee believes it is unwise public policy for Congress to grant guaranty agencies the authority to waive collection of the Federal dollars, thereby endangering the fiscal health of the agency and weakening the overall strength of the FFEL program. The guaranty fee has always been included in the structure of the Higher Education Act and unlike origination fees, was never thought to be a temporary measure.

The Committee Print provides for a multi-step process by which total loan fees will be reduced for all borrowers while the future fiscal health of the loan programs will be improved. The Committee Print mandates that borrowers pay the existing one percent fee charged by guaranty agencies, renamed the Federal default fee, to ensure the long-term viability of the loan guaranty structure. At the same time, the Committee Print phases out the temporary origination fees in the FFEL program, and phases total DL fees to one percent, concurrently eliminating the complex and uneven practice of rebating fees prior to repayment. Taken together, this will result in both FFEL and DL borrowers paying a total of just one percent in loan fees, a 75 percent reduction from the four percent fees under existing law. This simplified structure will ensure borrowers in both programs are treated equally and increase the amount of money a borrower actually receives to help pay for his education. Borrowers will pay a small fee (one percent) for the benefit of a consumer loan capped at a fiscally responsible 8.25 percent that includes a number of benefits that will assist students as they work to complete their education, allow borrowers to pay back their loans in a timely fashion and assist struggling borrowers to develop repayment options.

Loan Limits

To encourage responsible borrowing habits, prevent excessive student loan debt, and protect taxpayers against loan defaults, the Higher Education Act provides for annual and aggregate loan limits. As the Committee developed its higher education reform package, there was considerable debate between those who sought significantly higher loan limits, and those who believed loan limits should remain at their current levels, or even be reduced for some borrowers.

At the heart of this debate is the question of whether higher loan limits will do more to expand college access, simply expand student debt, or push institutions of higher education to increase tuition and fees. According to the College Board, the cost of attendance at a public four-year institution has risen 28 percent over the past 10 years. However, loan limits for first year students have not increased significantly since 1986. As a result, many would argue that loan limits should be increased to keep pace with the explosion in tuition. Groups such as the American Council on Education (ACE), Association of American Universities (AAU), College Parents of America, Consumer Bankers Association (CBA), Education Finance Council (EFC), National Association of Independent Colleges and Universities (NAICU), National Association of State Universities and Land Grant Colleges (NASULGC), National Association of Student Financial Aid Administrators (NASFAA), National Council of Higher Education Loan Programs (NCHELP) and Sallie Mae all spoke out in favor of increased loan limits for students. As the cost of attending college rapidly increases, students and families are relying more and more on student loans to assist them in pursuing their education. At the same time, the level of student debt continues to rise as well. The average Stafford loan debt level for a student graduating in 1995-1996 was $10,471; this figure rose to $15,862 for those graduating in 2003-2004. The Committee believes reasonable concern should be given to ensure the Federal government is not contributing to unmanageable debt burdens by providing irresponsible loan limits. The Committee believes that the Federal government should do its part to ensure that borrowers have access to affordable loans through the Stafford loan program. If students complete their first and second years, they are more likely to continue on through graduation. By increasing the loan limits for these students, the Committee believes students will be better equipped to enter into and graduate from college. The Committee Print provides reasonable increases in annual maximum loan limits for first and second year undergraduate students from $2,625 to $3,500 and $3,500 to $4,500, respectively, but does not increase the aggregate limit of $23,000. Similarly, the Committee Print increases the annual maximum graduate loan limits from $10,000 to $12,000 but does not increase the aggregate loan limit.

Interest Rates

Throughout the four decade history of the Federal student loan program, one of the most contentious issues has been that of the interest rate charged to borrowers. The Federal government has implemented a variety of fixed interest rates, only to be forced to revisit those rates when the inevitable occurs and the rate becomes out of sync with market conditions. The Committee believes it is of paramount importance that the student loan programs be placed on a solid financial foundation based in sound economic principles. As such, the Committee believes a variable interest rate that fluctuates with the market offers a viable, long-term solution to the interest rate question. This solution also protects the interests of the taxpayer against periods during which large special allowances will be paid out to lenders due to a drastic increase in market rates. By allowing the market forces to dictate the rates, the taxpayer is protected. By setting a reasonable interest rate cap, the student is also protected under this policy.

Under current law, the Stafford loan program is provided to borrowers on a variable interest rate pegged to the 91-day Treasury bill. The rate is adjusted annually, and a discount is provided to borrowers in school, in a grace period, or in deferment. However, that variable rate structure is scheduled to be replaced by a fixed, 6.8 percent interest rate for all borrowers beginning on July 1, 2006. Without Congressional action, all future Stafford loan borrowers would pay a static 6.8 percent interest rate regardless of market conditions.

Over the past several years, interest rates have fallen dramatically, and the variable rate structure of the student loan programs has allowed for students to benefit tremendously from these circumstances. In fact, interest rates have hit an all-time low in recent years for the student loan programs, residing at 3.37 percent last year. Even as interest rates rose somewhat in July 2005 to 4.7 percent for students in school and 5.3 percent for borrowers in repayment, the rates have not risen to the level set to take effect on July 1, 2006, which would lock borrowers in with no opportunity to benefit from changes in the economic climate. Prior to the introduction of the variable interest rate in 1992, Congress made a number of failed attempts at predicting future economic conditions by setting fixed interest rates ranging from six percent to up to 10 percent over time. The Committee believes the history of the loan programs demonstrate clearly that a fixed rate is unsustainable because it prevents borrowers from taking advantage of fluctuations in the market. However, the variable rate currently in place – and included in the Committee Print – offers borrowers dual benefits. It allows borrowers access to low rates when they are made available, and it protects borrowers from excessive rate increases through an interest rate cap of 8.25 percent. The Committee Print eliminates the switch to a fixed interest rate on July 1, 2006 and keeps the interest rates set on a variable rate formula. If current law were left in place, the interest rate on Stafford loans would be 6.8 percent. The rate could not go any lower than 6.8 percent. Interest rates on Stafford loans are currently 4.7 percent for students who are in school. If current law remains in place, the interest rate would jump at least two percent on student loans. In the past, every reauthorization period resulted in Congress adjusting the interest rates to match the current economic environment. By maintaining a variable interest rate with a reasonable cap of 8.25 percent, the Committee Print ensures that students are able to take advantage of low interest rates when rates decline and are protected by a fiscally responsible and reasonable cap should interest rates rise. The 8.25 percent cap also protects the taxpayers' liability in the program.

Considerable debate during the reauthorization also surrounded the issue of interest rates for the consolidation loan program. The consolidation loan program was originally intended to assist two groups of borrowers: first, borrowers with multiple lenders who wanted to consolidate their debt in order to make just one student loan payment per month, and second, those borrowers who had so much debt that they needed to stretch out their repayment term to lower their monthly payments. Congress never intended the consolidation loan program to be a refinancing tool. In fact, when the consolidation loan program was created in 1986, borrowers paid the *greater* of the weighted average of the underlying loans rounded up to the nearest whole percent, or nine percent. That means borrowers paid a minimum interest rate of nine percent. Given this historical perspective, it is clear that the consolidation loan program was not created as a refinancing tool to secure interest rates like those seen in recent years, and the explosion in consolidation loan subsidies have been an unintended consequence that must be addressed to ensure the future health and viability of the loan programs.

As interest rates began to decline in recent years, a period most argued was not predicted, nor would last, a record number of borrowers have consolidated their loans not necessarily because they needed the intended benefits of the program, but because of abnormally low interest rates and the unintended disparity between the consolidation program and the underlying Stafford program. Under current law, Stafford loans are variable interest rate loans, and consolidation loans are fixed interest rate loans. By consolidating a loan under these conditions, a borrower was able to lock in a long term fixed rate based on the rates of their underlying loans. In fact, consolidation loan volume surpassed Stafford loan volume last year. In the 2004-2005 academic year there were $47.220 billion in Stafford loans disbursed and $54.767 billion in consolidation loans disbursed. Just five years ago, during the 1999-2000 academic year, there were $28.838 billion in Stafford loans disbursed and only $10.108 billion in consolidation loans disbursed.

The Committee held a hearing last year entitled, "*Fiscal Responsibility and Federal Consolidation Loans: Examining Cost Implications for Taxpayers, Students, and Borrowers*," during which Mr. Robert Shapiro, Chairman of Sonecon, LLP and a Senior Fellow with the Brookings Institution and Progressive Policy Institute, testified about the long term budgetary impacts of the consolidation loan program. In his testimony, Mr. Shapiro stated,

> *"If interest rates move in the most likely way, taxpayers will pay private consolidators almost $14 billion to subsidize the interest on the current stock of fixed-rate consolidated student loans over the lifetime of those loans. Moreover, there is a reasonable likelihood that the costs will be much higher over the lifetime of these loans, if interest rates are 2 to 3 percentage points higher than projected, taxpayers will pay private consolidators more than $48 billion to service the current stock of loans."*

In addition, the independent Government Accountability Office pointed out the problem as well in its report, *"As Federal Costs of Loan Consolidation Rise, Other Options Should Be Examined,"* which pointed out that the record low interest rates and the record high consolidation loan volume has led to increased administrative costs and subsidy costs in the student loan programs.

While the Committee acknowledges that in the last few years, the fixed rate structure of the consolidation loan program has been advantageous to some borrowers, it is also clear that sound public policy cannot be based on a snapshot of a few years of unsustainably low interest rates. In making long-term policy, the Committee sought information on long-term trends to see how borrowers and taxpayers would be best served. In that vein, the independent Congressional Research Service (CRS) issued a report in 2004 that demonstrated that variable interest rate consolidation loans would have, more often than not, been cheaper for borrowers. The CRS analysis showed that in 13 of the last 18 years – since 1986, the first year of the consolidation loan program – borrowers would actually have been better off had their consolidation loans been available under a variable interest rate. If borrowers had extended repayment of their consolidation loans to 20 years, the analysis showed borrowers would have paid less interest in 14 of the last 18 years. This analysis demonstrates that over time, variable rates are actually beneficial to borrowers by offering the dual benefits of market fluctuation and an interest rate cap. If current law were adopted, borrowers would be forced into a consolidation loan with an interest rate of 6.8 percent. This option is both inflexible and unfair to borrowers consolidating at this time. When interest rates fall again, as they have over the past few years, history demonstrates that Congress will be forced to re-examine the policy set forth in current law. If Congress were to change the interest rate structure to adhere to the times, those borrowers who had not yet consolidated will be given the opportunity to consolidate again. History will repeat. Consolidation loan volume will soar and the cries of those borrowers who consolidated in 2005, with a fixed interest rate of 6.8 percent, will be loud. This cycle will always happen with a fixed interest rate.

The Committee Print takes precedent setting steps in offering borrowers new options in the consolidation loan program. For the first time ever, a borrower whose loans are held with one lender will be permitted to shop around with other lenders for the best deal on a consolidation loan. In addition, when the borrower consolidates the borrower will be able to choose between a fixed interest rate loan and a variable interest rate loan. The variable interest rate will be based on the same fiscally prudent formula that sets the Stafford loan interest rate, the 91-day Treasury bill + 2.3 percent. The fixed interest rate will be based off of the 91-day Treasury bill + 3.3 percent. Each of these options would include a small offset fee of one percent that will be paid to the U.S. Treasury. This minimal fee is a small price that is paid for the benefit of having the option between a fixed interest rate and a variable interest rate. These formulas permit borrowers to obtain exceptionally good interest rates (both options maintain the cap of 8.25 percent), but require that a borrower bear a greater share of the costs and risks associated with the benefits of up to a 30 year repayment schedule at a low fixed interest rate. . When combined with other reforms included in the Committee Print, offering borrowers a choice of either a fixed interest rate or a variable interest rate on a consolidation loan has the benefit of saving billions of dollars for the taxpayer while also offering flexibility to student loan borrowers. Borrowers will be able to pick the best interest rate that fits their financial needs. This solution provides borrowers added flexibility in the consolidation loan program while still protecting the interests of the American taxpayer and provides long-term stability to the consolidation loan program.

Portfolio Fee on Consolidation Loans

The student loan market is shifting. With the ability to lock in record low interest rates in 2003 and 2004, many graduates acted quickly to inquire about consolidating their student loans. Increased demand for consolidation loans led to an increased supply of lenders making these loans – and only these loans. Consolidation loans became a quick and easy way for new lenders to enter into the student loan industry. Consumers were able to benefit from this phenomenon because much greater borrower benefits were now available on consolidation loans. However, these increased benefits are being paid for at the expense of the American taxpayer who subsidizes these loans for up to 30 years. Additionally, traditional lenders had to fight to protect their loan portfolios by remaining competitive through increasing the benefits available on their consolidation loan products. The more benefits lenders offer to graduates on consolidation loans, the less benefits lenders will be able to offer to students who receive a Stafford loan as an undergraduate. This shift contradicts the goal of ensuring students have access to some form of postsecondary education, which was one of the main goals the Committee has maintained for both the reauthorization and the reconciliation processes. The lenders that offer a loan portfolio composed primarily of consolidation loans are shifting the marketplace into dangerous territory that threatens the goal of ensuring every student has the opportunity to pursue a higher education.

Under current law, the Secretary assesses an annual fee of 1.05 percent on lenders' consolidation loan portfolios. The Committee Print increases this annual fee to 1.30 percent on a lender's consolidation portfolio if consolidation loans make up at least 90 percent of the lender's total loan portfolio. The Committee believes that this fee increase will provide an incentive to those companies that have recently joined the student loan industry to become more committed to the underlying goals of access that are a cornerstone of the student loan programs and encourage these organizations to diversify their portfolios. Through diversification, these lenders will demonstrate to Congress and the American taxpayers that they are in the program to ensure students have access to low-cost student loans.

With interest rates dropping to all-time low levels in recent years, a number of new lenders joined the student loan marketplace. These lenders specialize solely in the consolidation loan business. The Committee believes one reason consolidation loan volume has skyrocketed from $15 billion in the 2000-2001 award year to $55 billion in the 2004-2005 award year is due in part to the increase in the number of lenders offering only consolidation loans. While the consolidation-only lenders have brought some additional competition to the consolidation loan program that permits borrowers more discounts than ever before available in the consolidation loan program, the competition to consolidate a borrower's loan remains so fierce that the Committee believes companies have exploited a number of loopholes within the Higher Education Act. The Committee Print takes great strides in shutting down these loopholes, such as eliminating the ability of lenders to circumvent the single holder rule and eliminating the practice of in-school consolidation. Despite rules like the single holder rule that are currently in the law, loans are being picked off of the traditional lenders' portfolios by consolidation lenders. When this occurs, borrowers lose, traditional lenders lose, and the taxpayer loses. Borrowers lose because they become confused at the rules surrounding the program and do not clearly understand their rights and responsibilities. Lenders lose because all of their investment into building a trustworthy relationship with the borrower and into technology to improve the origination and disbursement of loans is for naught. Finally, the American taxpayer loses because they are forced to continue to subsidize the loans for years into the future.

The student loan market is slowly transforming from a Stafford loan market to a consolidation loan market whereby all of the discounts and competition for business will also shift from originating a student's loan his freshman year of college to originating his consolidation loan after the student has graduated. The shift causes the Federal investment in the student loan programs to be taken from students and applied to borrowers, people that have graduated from college that have already benefited from Federal subsidies, such as lower interest rates and some payment of their accruing interest, while in school. This policy goes against every goal the Committee had when writing the Committee Print, which makes great strides in improving access to college for any qualified student who wants to pursue a postsecondary education. The Committee wants to continue to ensure that students are able to get low cost loans at the front-end of their education career from either individual private lenders who participate in the FFEL program or the government-backed DL program administered by the Department of Education.

Direct Loans versus Federal Family Education Loans

Ever since the inception of the Direct Loan program in 1993, there has been confusion and debate as to which program is better, costs less, and whether the two should coexist at all. The Committee continues to be concerned about the budgetary scoring of the Direct Loan (DL) program and the Federal Family Education Loan (FFEL) program. Our concerns echo those expressed in the fiscal year 2006 conference budget resolution adopted earlier this year by Congress. The resolution includes the following report language concerning the budgetary scoring of the student loan programs:

> *"Although the Congress strongly supports the Federal student loan programs, it is increasingly concerned that the subsidy estimates for the Ford Direct Loan Program do not reflect the program's true cost to the Federal Government. For example, the President's 2006 budget reveals that although the program was expected to result in a net savings of $2 billion from its inception through fiscal year 2004, the actual experience is that the program resulted in a net cost to taxpayers of $3 billion over the same period. This represents a $5-billion underestimate of the program's actual cost to taxpayers over roughly 10 years. Accordingly, the Congress supports the administration's continuing efforts to direct the Department of Education to refine and improve its cost estimating techniques for this program.*
>
> *The Congress believes it is important for estimates to be corrected for all known deficiencies so that the decision makers have sufficient information to compare the cost to taxpayers of competing policy options, and large-scale structural reform proposals, in the student loan programs."*

Due to the concerns the Committee had about the costs of the two programs and because the Committee believes the competition between the two programs has been beneficial to all colleges and universities, the Committee made a decision to allow the market to decide in allowing the competition, which has been beneficial both to the programs, students, and institutions, to continue. That competition resulted in better customer service and borrower benefits in the FFEL program and has resulted in some increased accountability in the DL program by the Department of Education. Earlier in this Congress, the Committee on Government Reform held a hearing entitled, *"Federal Student Loan Programs Are They Meeting the Needs of Students and Schools?"* with the purpose of exploring the differences between the two student loan programs as it relates to the services the programs provide schools and students. During this hearing, the Director of Student Financial Aid at The Ohio State University, the country's largest DL institution, Ms. Natala Hart, spoke about the benefits of the competition between the two student loan programs. She stated:

> *"We at Ohio State believe both FFELP and DL working together have resulted in the most effective and efficient improvements in the financial aid system. While we*

remain steadfastly a DL school, we encourage continuation of FFELP as well as DL, as competition makes both programs more receptive to students' needs."

At that same hearing, Ms. Cynthia Thorton, Director of Financial Aid at Dillard University also testified. Her testimony focused around the problems her university experienced with the DL program and why they switched back into the FFEL program. Dillard University joined the DL program in 1996 and left the program in 2003 after experiencing continued problems with reconciliation of accounts. She stated:

> *"Dillard University entered the FDLP in 1996, after the program was two years old. Initially, it appeared that loans were being delivered in a timelier manner. However, in 1997, the FDLP transitioned its loan origination services from Computer Data Systems to Electronic Data Systems. The transition was difficult on the Department of Education and the schools involved.*
>
> *During this transition, student loan services were interrupted for four to five weeks which created a financial crisis for the school and loan recipients awaiting funds to meet fiscal obligations….After evaluating the challenges the students and the administration were experiencing with the FDLP, Dillard University made the decision to return to the FFELP program.*
>
> *Dillard's return to the FFELP was a slow process. I believe if one would ask the Financial Aid Office at FDLP schools what is the one element they dislike about the Direct Loan Program, I am sure the overwhelming response would be the reconciliation. In addition to the arduous task of administering the FDLP, reconciling the FDLP was an additional responsibility not required by the FFELP. I recall many difficulties trying to reconcile and close out the program simply because records were lost at the Direct Loan servicer. Even after providing the agencies copies of cancelled checks, it was difficult to bring closure to discrepancies. We officially closed out our loans with the FDLP at the conclusion of the 2003-2004 school years."*

Ms. Thorton was not alone in her experience. In a survey conducted by Rockbridge Associates Inc. of Financial Aid Administrators (FAAs) at institutions that switched from the DL program to the FFEL program, 20 percent of the FAAs surveyed said that the decision to switch programs relied heavily on general issues of customer service and 22 percent said that the fees and borrower benefits in the program were the reasons the institutions switched programs. In addition, since the inception of the DL program, over 500 schools have left the program to return to the FFEL program. Today, approximately 75 percent of the student loan volume is in the FFEL program and 25 percent is in the DL program. However, the DL schools now seem pleased with the level of service they are receiving. For that reason, the Committee focused its efforts in reauthorization around taking steps toward leveling the playing field between the two programs from the borrower's perspective. For example, the Committee Print phases down fees paid by borrowers so that by 2010 students will be paying one percent in both programs. The bill also increases loan limits in each program and aligns the DL program's extended repayment plan to match the FFEL repayment plan.

Over the past several years, the Committee tried to better evaluate the cost of the two student loan programs. While the Committee passed a reauthorization bill that tried to strengthen both student loan programs, the Committee remains concerned that the subsidy estimate for the DL program does not reflect the program's true cost. The President's fiscal year 2006 budget request indicates that over the life of the programs, the FFEL program has been re-estimated to cost $7 billion *less* than originally estimated while the DL program has been re-estimated to cost $5 billion *more* than originally estimated. In addition, in a recently released report, Citizens Against Government Waste recommended that closer scrutiny of the costs between the FFEL program and the DL program is warranted. Earlier this year, the independent auditing firm PricewaterhouseCoopers (PwC) concluded that the DL program costs taxpayers significantly more than the Federal budget estimates show because certain costs and revenues are completely ignored. For example, budget estimates fail to account for the revenue generated by taxes paid to the Treasury by private sector lenders, exclude all administrative costs associated with the DL program, and utilize biased scorekeeping rules that continue to underestimate the cost of the DL program.

The Committee is also concerned that the official scorekeeping baselines for the Federal student loan programs are inadequate as a policy decision-making tool because they do not accurately portray the relative cost of the two major student loan programs – the DL and the FFEL – or the cost impact of shifting loan volume between the two programs.

The Committee believes that until the above factors are accurately accounted for in the official scoring baseline, any claim of budgetary savings from shifting loan volume among the student loan programs is premature. This will remain the case so long as a flawed and incomplete system of accounting remains in use. Therefore, the Committee intends to work with the House Budget Committee and the Congressional Budget Office to develop a more accurate official scoring baseline, that incorporates the cost and revenue factors identified by the PricewaterhouseCoopers study, and which will more correctly account for the budgetary impact of the Federal DL program.

Student Aid Administrative Account

Under current law, the Department of Education's student aid administrative activities are derived from two sources. The first source of administrative funds is derived from a discretionary appropriation. This account was developed after Congress consolidated two discretionary accounts, a FFEL administration account and a program administration account, in 2003. The second source is the account authorized in section 458 of the Higher Education Act. Section 458 authorizes funds for the administrative functions of all of the student aid programs, including the FFEL program, the DL program, the Pell Grant program, and the administration (origination and servicing of loans) for the DL program and the account maintenance fees for the guaranty agencies that participate in the FFEL program. The 458 account is the source of funds for the account maintenance fee (AMF) that the Federal government pays to the 35 guaranty agencies in support of their administration of the Federal guarantee on loans in the FFEL program. The Administration's fiscal year 2006 budget proposed a funding level of $795 million for the administrative costs and $195 million for the AMF. The 458 account is the only mandatory administrative account that funds solely administrative functions under the

Committee's jurisdiction. The Committee Print proposes to change the funding streams going into the section 458 account by converting the administrative function portion of the account from a mandatory spending account to a discretionary spending account, but leaving the portion of section 458 that funds the AMF as a mandatory expenditure.

The 458 account was originally proposed by the Clinton Administration to administer and service the Direct Loan program in 1994. Up until this time, the Department's administration of the student loan program had been run from discretionary appropriations. During the 1998 reauthorization, the funding stream for the guaranty agencies was reformed and the responsibility for the AMF also ended up in the section 458 account. Since that time, the Department's Office of Federal Student Aid (FSA) has been transformed and worked to better integrate all of its student aid functions so that the system can run in a more efficient and cost-effective manner. This transformation has led to the integration of the administrative functions for all the student aid programs. Today, the administrative portion of the section 458 account encompasses much more than the Direct Loan program – it funds most of the administration of the student aid programs. For example, since 2001, FSA has worked with one contractor to develop an origination system that runs the origination and disbursement functions for both the Direct Loan program and the Pell Grant program. This system works at the borrower level, rather than working at a broader programmatic level. In addition, in 2003, FSA created the Common Services for Borrowers (CSB) system that integrates back-end operations in the office, DL servicing, and consolidation, and FFEL and DL debt collection functions into one system, which is administered by one contractor. With the integration of the servicing and administration of the various student aid programs, the Department has aligned itself in such a way that it no longer needs this account as a mandatory burden on the taxpayers' shoulders. In fact, for the past 3 years, President Bush has proposed to make the section 458 account discretionary on the grounds that having one centralized new discretionary Student Aid Administration account would increase accountability, reduce costs, and improve financial controls. The Committee Print converts this portion of the section 458 funds from a mandatory expenditure to a discretionary expenditure.

As previously mentioned, section 458 also funds the account maintenance fee for the 35 guaranty agencies. This fee assists the guaranty agencies with the administrative functions of preventing defaults and administering the government's guarantee on student loans. Under current law, the guaranty agencies have had to transfer funds between their operating fund and the Federal fund to make up for an $84 million shortfall in the 458 account. This shortfall is expected to grow by an additional $120 million this year and continue to increase 10 to 15 percent in coming years. This shortfall is causing a significant drain on the guaranty agencies' Federal funds because the statutorily established caps for the AMF have not moved since 2003, yet the student loan volume has increased by approximately $13 billion since that time. The shift of funds between the Federal fund and the operating fund severely endangers the health of the guaranty agency. The funds in the operating fund are spent on valuable default aversion activities such as creating new systems to educate borrowers about their financial responsibilities, creating new programs that encourage borrowers to repay their student loans on time, or teach borrowers how to better allocate their finances. The Committee believes the increase in innovative financial literacy programs and default aversion activities contributed to the sharp decrease in the cohort default rate recently. Since fiscal year 1993, the cohort default rate decreased from 11.6 percent to 4.5 percent. The Committee does not believe guaranty agencies would be able to continue to develop these programs or conduct activities to the same extent done now if the agencies had to rely on the appropriations process every year. It is for that reason the Committee proposes to maintain this portion of section 458 as a mandatory expenditure.

While the funds in the section 458 account were used in the past to fund solely the Direct Loan program, this is no longer the case. Across the Federal government, there are only a small number of administrative accounts that are supported by mandatory funds and most of the funds spent in these accounts are a part of a Federal match to a program. The section 458 account is the only account that is composed entirely of mandatory funds. In a time when technology has improved so drastically, there is no reason that this administrative account needs to remain a mandatory spending requirement for the Federal government. The Department has made strides in recent years to better integrate all of its administrative functions so that, at this time, it only makes sense to combine the different administration accounts into one discretionary account with a funding level set based on the needs of the programs on an annual basis. At the same time, the Committee believes that the function of the guaranty agencies in default aversion and recovery of funds is an important piece to the FFEL program. It is for that reason, that the portion of the section 458 account that funds the AMF will remain a mandatory expenditure. The Committee strongly believes this change to the section 458 account continues along our goal of equalizing the treatment of the two loan programs.

Teacher Loan Forgiveness

No Child Left Behind requires each State educational agency to develop a plan to ensure that all teachers teaching in core academic subjects within the State are highly qualified not later than the end of the 2005-2006 school year. Additionally, over the next ten years, school districts will need to hire over two million additional teachers to keep up with increased student enrollment.

States and school districts must recruit a greater quantity of people to the teaching profession while also ensuring teacher quality. Unfortunately, schools with concentrated poverty have greater teacher and administrator shortages, fewer applications for vacancies, higher absenteeism among teachers and staff, and higher rates of teacher and administrator turnover. Shortages of math, science and special education teachers are at a critical level. While No Child Left Behind will help school districts recruit and train high quality teachers, more help is needed.

The expanded loan forgiveness for math, science and special education teachers, as well as reading specialists, is a longstanding priority for the Committee and the Congress. There are demonstrated shortages of teachers in these subject areas, particularly in rural and urban school districts that serve disadvantaged students. According to *The Urban Teacher Challenge*, released in January 2000, the nation's largest urban school districts responding to a national survey reported immediate needs for math (95 percent), science (98 percent) and special education teachers (98 percent). The National Center for Education Statistics reports, for the 1999-2000 school year, that 67 percent of public elementary and middle schools had vacancies in special education, 70 percent in mathematics, 61 percent in biology and 51 percent in physical science. According to the Center for the Study of Teaching Policy, almost 57 percent of public school teachers are teaching physical science without a major or minor in their field. The Committee Print will provide incentives that will allow flexibility to local schools to recruit and retain highly qualified teachers in these critical subject areas in both public and private elementary and secondary schools across the country. Similar loan forgiveness measures have been included in President Bush's annual budget requests in 2002, 2003, 2004, 2005, and 2006 and approved by the House in 2002 (H.R. 5091), 2003 (H.R. 438), and signed into law in 2004 (H.R. 5186).

The Committee Print complements No Child Left Behind's focus on improving the education that children receive, particularly the education that disadvantaged students and students with disabilities receive, by supporting quality teachers for our children. The Committee Print makes permanent the expanded mandatory teacher loan forgiveness maximum amount of $17,500, up from the previous $5,000, of a teacher's outstanding loan obligation for those teaching math, science or special education for five years in a title I school. In addition, the Committee Print includes loan forgiveness for reading specialists, recognizing that literacy is one of the most important building blocks students need to learn in order to be successful throughout their lives. The teacher must teach for five consecutive years in a title I school for five years in order to qualify. Additionally, in order to aid those students who are not able to meet their loan payments while they are teaching, the Secretary has authority to provide the borrower a waiver of that repayment obligation if the borrower can prove, in accordance with regulations promulgated by the Secretary, economic hardship.

By offering additional financial support for public and private elementary and secondary teachers who have made a commitment to teach in title I schools in the defined critical subject areas - math, science and special education - this bill can make it possible for more disadvantaged students to be taught by caring and competent teachers in subject areas that will help shape not only the student but the economic future of the country. Teaching in high need, low income schools isn't always easy, but nowhere is it more important.

The Committee Print includes a provision that would permit private school teachers who are otherwise exempt from State certification requirements related to highly qualified teacher status to also take advantage of the increased amount of teacher loan forgiveness. The Committee Print considers private school teachers to be in the same category as charter school teachers under the highly qualified teacher provisions of No Child Left Behind. Further, allowing private school teachers to fulfill rigorous subject matter and skills knowledge requirements by achieving passing scores on nationally developed and available teacher competency tests would provide private school teachers the opportunity to participate in the loan forgiveness program even in States that preclude such teachers from taking State teacher competency tests.

The Committee believes we need to do everything we can to encourage college students to enter a field that, while challenging, is one of the most rewarding careers one can undertake. The Committee Print will help to encourage the best and the brightest of our nation's college students to enter the teaching profession to remain committed to the profession and the schools in which they teach.

National Need Loan Forgiveness

The Committee Print also updates the existing authority for discretionary loan forgiveness for child care workers, a program that has not received funding in recent years in its current form. Under the Committee Print, the Committee expanded the program to offer up to $5,000 of loan forgiveness to individuals in professions considered to be areas of national need as designated by the Secretary. This program includes loan forgiveness for early childhood educators, nurses, foreign language specialists, librarians, bilingual educators, first responders in low income communities, child welfare workers and speech language pathologists. These items were added by the Committee as priorities at this time.

During the mark-up of H.R. 609, Representative Porter (R-NV) highlighted that dating back to 2000, there was a six percent shortage of nurses and other health care professionals. That shortage is projected to increase to a shortage of almost 30 percent in the next 15 to 20 years. There is also a shortage of professionals available to teach students to become nurses, exacerbating the shortages today and those we will see into the future. Over the next 10 years, more than two million teachers will leave the field for other careers. With the continued vacancies in the nursing profession, we need people willing to go into the teaching field to educate students hoping to pursue a career in nursing. In addition, Representative Platts (R-PA) brought to the Committee's attention the shortage of early childhood educators and the importance of having qualified people serve in these positions. The Economic Policy Institute, the Keystone Research Center and the Foundation for Child Development recently published a report titled, "*Losing Ground in Early Childhood Education: Declining Workforce Qualifications in an Expanding Industry, 1979-2004,*" in which it was demonstrated that the number of early childhood staff with college degrees has dropped significantly over the past 20 years, from 43 percent to 30 percent. In addition, the report pointed out that the most educated cohort of early childhood teachers are retiring in the next 15 years and there are not enough students in the pipeline to fill those positions.

The Committee believes authorizing loan forgiveness for these areas with demonstrated national need will provide a step in the right direction as the nation works to alleviate shortages in key fields.

Cutting Excess Spending out of the Student Loan Programs

The Committee Print makes a number of reforms that alter the Federal investment in the student loan programs and ensure Federal funds will be spent more wisely on behalf of students and taxpayers. Perhaps most visible of these reforms given the significant media attention to the issue in the months preceding reauthorization is the provision for a comprehensive and permanent end to provisions that allow certain lenders to collect higher than market rate yields – the so-called half SAP/9.5 floor for special allowance – on some students loans. The history of these provisions is complex, but the solution provided under the Committee Print is unambiguous.

By way of background, current law and regulations permit lenders with access to pre-October 1, 1993 tax-exempt bond estates to receive a minimum return on the loans of 9.5 percent. This practice originated in order to place non-profit lenders on a more level playing field with other types of lenders; through eligible tax-exempt bonds, non-profit lenders were guaranteed to receive half the special allowance payment (SAP) of banks, or a minimum of 9.5 percent. The special allowance payment of half SAP or at least 9.5 percent, from here forward to be referred to as 9.5 percent subsidies, was put into the law in the 1980s when interest rates were much higher and the Federal government needed to infuse additional capital into the program.

The Omnibus Reconciliation Act of 1993 eliminated the guaranteed 9.5 percent rate of return for tax-exempt bonds going forward as interest rates began to fall. Many, including the Committee, believe Congressional intent was that over time, as the eligible bonds were paid off and retired, the 9.5 subsidies would be eliminated entirely. However, through a series of administrative actions, the subsidy payments were allowed to continue.

In 1993, the Clinton Administration issued a Dear Colleague Letter that permitted the 9.5 percent subsidies to continue by allowing eligible bonds to be refinanced without losing the 9.5 percent benefit. In 1996, the Department of Education under the Clinton Administration issued another piece of administrative guidance that permitted loans to be transferred in and out of eligible bonds, allowing still more loans to become subject to the higher guaranteed rate of return. This practice of transferring, in particular, has been responsible for the significant growth in volume of 9.5 percent subsidies, as eligible loans have been transferred to taxable bonds.

In recent years interest rates have dropped dramatically and the 9.5 percent subsidies have provided a significant return for some lenders. The Committee believes that while the 9.5 percent subsidies may have made sense two decades ago, when the economic climate was much different than it is today, the time has come to put an end to this unnecessarily high rate of return. During the 108^{th} Congress, temporary legislation was enacted to provide an immediate halt to the practices that had allowed the volume of 9.5 percent subsidies to grow: transferring loans in and out of eligible bonds, and refunding bonds to extend the maturity date. The Committee was clear when that bill, the Taxpayer-Teacher Protection Act (P.L. 108-409), was enacted, it was merely a temporary solution. The complete and permanent closure of the 9.5 percent subsidies was to come during the Higher Education Act reauthorization.

There is ample evidence that the administrative actions during the Clinton Administration allowed the 9.5 percent subsidies to expand, rather than decline as was originally intended. From 2001 to 2004, the Department of Education's special allowance payments on these "9.5 loans" increased from $209 million to $955.5 million. Between the time Congress passed the Taxpayer-Teacher Protection Act in October 2004 and the third quarter of fiscal year 2005, special allowance payments on these loans have dropped from $262 million to $210 million and loan volume has decreased from $17.5 billion to $14.6 billion.

With demonstrated proof that the Taxpayer Teacher Protection Act is working, the Committee believes the 9.5 percent subsidies are well on their way to being eliminated entirely. Through the Committee Print, the Committee makes the provisions of the Taxpayer-Teacher Protection Act permanent, and goes a step further by also closing down the practice known as recycling, which permits the proceeds of an eligible bond to be reinvested in new loans which also carry the higher rate of return. Taken together, the reforms in the Committee Print will halt the practices of transferring, refunding, and recycling, and no additional loans will be tagged with the special 9.5 percent subsidies. Subsidies are already declining rapidly, and under the bill, in time they will be eliminated all together.

A second practice which spends Federal funds unwisely is known as the “Super Two Step,” a practice whereby lenders counsel borrowers with FFEL consolidation loans to re-consolidate into the DL program and then re-consolidate again into the FFEL program. As previously stated, the intent of the consolidation loan program was to permit borrowers to either lower their monthly loan payments by stretching out their repayment term or consolidate multiple payments into one payment. The program was <u>never</u> intended to be used for refinancing purposes. This practice subverts all Congressional intent of the statute and has resulted in millions of dollars being bled from the Federal Treasury.

The Committee Print also stops another form of excess earnings in the loan programs, in which lenders are able to collect more than their guaranteed minimum rate of return. The structure of the loan programs provides for a minimum rate of return for lenders to ensure funds are available to students, as well as a below market interest rate for borrowers. The lenders’ guaranteed rate of return, known as a lender yield, fluctuates with the market. Student loan interest rates also fluctuate with the market. As a result, the borrower rate – still below the market rate for other consumer loan products – may sometimes exceed the lender yield. In simple terms, this means the rate being paid by the borrower is actually higher than the minimum rate guaranteed to the lender. The Committee Print requires lenders to return to the Federal government these excess earnings, otherwise referred to as “floor income.” This reform will generate savings for taxpayers while preserving the basic structure of low rates for borrowers and minimum returns for lenders.

The Committee Print also lowers the amount guarantors are permitted to keep as collection costs from 18.5 percent to 10 percent if the borrower consolidates a defaulted loan, with the 8.5 percent difference going to the Department of Education. Furthermore, beginning October 1, 2009, guaranty agencies must return to the Secretary the entire amount of collection costs charged with respect to each defaulted loan that is paid off with excess consolidation proceeds. The new provision also defines the term "excess consolidation proceeds" to mean the proceeds of consolidation of defaulted loans that exceed 45 percent of the agency's total collections on defaulted loans in a given Federal fiscal year.

The Committee believes strongly that agencies should counsel more borrowers to rehabilitate their loans to get out of default rather than just consolidate the loans. To rehabilitate a loan, borrowers must make 9 consecutive, on-time payments. Through rehabilitation, a borrower learns to make consistent payments and earns the benefit of cleaning up his credit record. If the borrower consolidates to get out of default, he does not receive the same benefit of cleaning up his credit. In addition, the borrower does not get in the habit of making consistent payments and the chances of re-defaulting on the loan increase significantly. The Committee Print provides an incentive to guaranty and collection agencies to counsel borrowers to rehabilitation by permitting the agencies to retain the full 18.5 percent if the borrower enters rehabilitation**.**

Finally, the Committee Print adjusts the amount guaranty agencies are permitted to retain from collections on non-consolidated defaulted loans. Under current law, guaranty agencies, upon the remittance of each borrower payment, may retain 23 percent of the payment. The Committee Print reduces the amount the guaranty agency can retain on borrower payments on defaulted loans to 20 percent, thus increasing the amount remitted to the Department of Education by 3 percentage points.

Risk Sharing

The Federally guaranteed loan program is based on the premise that the Federal government guarantees lenders against default, in exchange for which lenders offer capital to loan borrowers at below market rates. In the past several years, lenders have significantly increased efficiency and improved program operation, and as a result, are able to provide student loans with a lower cost of capital while still providing valuable benefits to borrowers. Student loan borrowers have already begun to benefit from the improvements made by lenders, and under the Committee Print, taxpayers will also begin to benefit.

Given the increased efficiency in the loan programs and the historically low default rates, the Committee believes it is prudent for lenders to accept a modest increase in the risk sharing. In addition, the Committee feels strongly that FFEL program participants, lenders, and guarantors must continue efforts in the area of default aversion to ensure default rates remain low. The Committee agreed with the President's fiscal year 2006 budget submission to Congress on this point. Representative Tom Petri (R-WI) responded by introducing an amendment to H.R. 609, which the Committee accepted, that reduced lender insurance from 98 percent to 96 percent and reduced guarantor reinsurance from 95 percent to 93 percent. Since this amendment was accepted, the Committee learned that guarantor agencies will receive a disproportionate reduction that would risk the financial stability of the agencies. Therefore, the Committee Print reinstates the guarantor reinsurance to the level authorized in current law, which is 95 percent.

To further strengthen the loan programs in the interest of American taxpayers, the Committee has provided for common sense changes to reward high-performing lenders and servicers. Currently, a large majority of the loan volume qualifies for the 100 percent insurance award that comes with the designation of a lender or service as an "Exceptional Performer." As of the writing of this report, the Department of Education has awarded the Exceptional Performer designation to 11 lenders or servicers. Of those 11, the servicers together service loans for 93 lenders and the lenders are all in ranked in the top 35 of loan holders. These numbers demonstrate that a large majority of the loan volume is currently receiving 100 percent insurance, rather than the currently authorized level of 98 percent. With so little risk sharing in the program, lenders and servicers have little incentive to continue to strive to improve their default aversion methods. The Exceptional Performer program has achieved its goal and the Committee believes it is time to retool the program so that it continues to serve its original purpose – to push lenders and servicers to improve their programs thereby resulting in lower defaults. To that end, the Committee ties the Exceptional Performer designation to outcome based measures rather than the current method, which demands nothing more than a score on a compliance audit. The new Exceptional Performer designation is also constructed in such a way that the best lenders and servicers are awarded this designation by only permitting the top five percent in the industry to receive the special recognition.

The Committee Print also requires lenders to increase their contribution to the student loan program by increasing the origination fee lenders pay on all loans from 0.50 percent to one percent. This one-time fee is currently paid by the lenders on all loans to the U.S. Treasury.

These reductions and reforms fit the Committee's goal of improving efficiency in the program, encouraging lenders to improve their services to avoid defaults, and relieving some of the financial burden on the taxpayer.

Repayment Plans

In recent years, college students have seen a rise in the cost of college and similarly, a rise in the amount of student loan debt they need to take on in order to pay for that rise in college tuition. In addition, over the past few years, the market has provided record low interest rates on student loans. When students graduate, they are faced with a decision about whether to consolidate their loans, thereby stretching out their monthly payments, or to pick one of the repayment plans currently offered within the Stafford loan program. Under current law, DL borrowers will find themselves with different options than FFEL borrowers. The Committee Print levels the playing field by conforming the DL repayment plans to match the FFEL repayment plans.

Under current law, borrowers who have just graduated and may not have a job right away or who may have a low-paying job have limited options as far as avenues to lower their monthly payment without stretching out their debt. The Committee believes this is an important gap to fill as some students may just need temporary relief and do not want to stretch their payments out longer than 10 years. The Committee Print implements an interest only repayment plan whereby borrowers pay only the interest accruing on their loan, or $600 annually which ever is more, for the first two years they are in repayment. This new interest only repayment plan, which is added to both the FFEL and DL programs, will give borrowers additional repayment relief as they begin their careers without having the borrowers forced into the consolidation loan program or forced to default because they do not have the funds to make the initial payments.

Military Deferment

In 2003, Congress originally extended the Higher Education Relief Opportunities for Students Act (HEROES), P.L. 108-76, granting the Department of Education waiver authority of statutory and regulatory student loan requirements for college students who had been called to active duty in the U.S. Armed Forces. This bill, P.L. 109-78, was extended again this year for another two years. The Department of Education implemented the waivers in December 2003. Since that time, students serving in the Armed Forces have enjoyed the benefits of extended in-school deferment on their loans, relaxed requirements to obtain a leave of absence from the school and extended grace periods if the student was in grace when he or she was called to serve.

In addition, student loan borrowers that obtained loans prior to July 1, 1993 were able to qualify for a military deferment. This deferment option was removed during the 1992 Higher Education Act reauthorization.

The Committee believes members of the military that have accrued loans since July 1, 1993 should also be afforded these same benefits and accepted an idea proposed by Representative Tom Osborne (R-NE) to solve this discrepancy. As a result, H.R. 609 added a provision that extends a student loan deferment option to members of the Armed Forces or National Guard serving on active duty during a war or other military emergency or national emergency. This provision was also included in the Committee Print. This new deferment will permit the borrowers to forgo payments on their loan principal without going into default. In addition, all interest accruing on subsidized loans will be paid for by the Department of Education. The borrower will have the option of either paying the interest that is accruing on the unsubsidized loans or not paying the interest and having it capitalize at the end of the deferment period. This new provision will permit our service members the ability to concentrate on the task at hand without having to worry that they are meeting their monthly student loan payments. The provision also sends a message of support to our deployed troops, many of whom have left their families and often their civilian jobs that they do not have to forfeit the right to an affordable education in order to serve their country in uniform.

Financial Education & Additional Disclosures

The rules and regulations surrounding the student loan program are complex and can be extremely confusing to borrowers. With students taking on increased levels of student loan debt to finance their education and with the strong detrimental effects on a borrower's credit report that evolves from defaulting on student loan payments, the Committee strongly believes that more financial education should be infused into the law. Currently, students must attend both entrance counseling and exit counseling in order to receive a student loan. However, often these sessions are held in auditoriums or big group settings where the borrower is not given counseling that directly meets their financial situation. In addition, more and more financial aid offices are taking their entrance and exit counseling on-line where the borrower can quickly click through some instructions and answer a fairly simple quiz that, again, does not address their specific financial situation. These counseling sessions also do not take into account other spending or budgeting needs of a new graduate. The Committee has spoken with many lenders, servicers and guarantors regarding the steps these entities are already taking to provide borrowers with better counseling. FFEL participants are taking more steps than necessary in order to ensure that their customers are well informed. However, the Committee strongly believes there is an important Federal purpose here, so the Committee Print is infused with various provisions requiring guaranty agencies to undertake additional steps in the financial education area. It is the hope of the Committee that with the new provisions, students and borrowers will be better informed about the burden of borrowing more money than necessary and will also be counseled on how to work their student loan obligations into their overall budget, which will prevent delinquencies and defaults.

The goal of creating better informed borrowers also spills into the consolidation loan program. Over the past several years, the Committee has heard from Americans all across the country who consolidated their loans at much higher interest rates because they were not told that they could only consolidate once or that they would lose certain benefits upon consolidating. In addition, with the advent of the record low interest rates, an increased amount of direct-to-consumer advertising in the student loan industry has commenced. In response to these new trends, the Committee Print takes steps to ensure that borrowers are being given all of the relevant information by these companies. The bill requires that lenders give borrowers information on the effects of consolidation on the borrower's total interest to be paid, fees to be paid and length of repayment. In addition, the borrower is to be told about how the consolidation loan would change the benefits given by the underlying loan, the ability of a borrower to prepay the loan or pay on a shorter schedule. Finally, lenders are also required to disseminate information on any tax benefits for which the borrower could be eligible. The Committee believes these additional disclosures will help borrowers more fully understand their rights under the student loan program and assist borrowers in deciding whether it is financially prudent to consolidate their loans.

The Committee has also heard from borrowers who indicated that they wanted to be able to find the best offer on their consolidation loans or find a lender with different customer service. Currently, if borrowers have all of their loans with one lender, the borrower must consolidate with that lender. The Committee Print expands the borrower's options in eliminating this inflexible rule known as the single holder rule. With the changes in the Committee Print, borrowers will now be able to shop around to find the best offer that suits their financial needs.

Credit Bureaus

In 2003, the media reported on an incident with one lender where the student loan company stopped reporting to all three national credit bureaus and instead reported its borrowers' payment information to just one bureau. The lender defended its actions by saying that it wanted to protect its customers' privacy because the other two credit bureaus were selling its borrowers' loan information to other student loan companies. This lack of disclosure affected borrowers' ability to obtain mortgages and credit cards, and had a particularly detrimental effect on first time home buyers. Mortgage lenders will often look at all three bureaus credit scores and average them for a particular borrower in order to determine the feasibility of lending to the borrower. If the borrower's scores are inconsistent, this could harm the borrower's ability to obtain a positive review by the mortgage lender. The Committee understands the dramatic effect paying, or not paying, student loans back has on a borrower's credit rating and believes strongly that a lender should report information to *all* national credit bureaus. The Committee Print requires that lenders must report loan payment information to all national credit bureaus, not just one or two particular companies.

Disability Determination

The Committee Print makes a subtle but powerful change to the parameters around total and permanent disability discharge provisions. The Higher Education Act has long provided for the discharge of a student's loan in the case of death and total and permanent disability. In 2000, the regulations surrounding the total and permanent disability discharge changed dramatically. New and additional burdens to students already facing very difficult life and health situations were added in an effort to stem perceived fraud and abuse. While the Committee agrees with enforcing standards to ensure only those truly eligible receive such a benefit, the accompanying requirements must also be reasonable. The Committee Print provides if the Veterans Administration or the Social Security Administration determines an individual is in fact totally and permanently disabled, the Secretary of Education shall accept that determination. The Committee believes that a balance can be achieved between providing for this discharge without unnecessary administrative burden on recipients and preventing fraud and abuse. The Committee believes that once an individual has met the burden of proof relating to disability for the purposes of the discharge of a student loan under rules established under another Federal agency, there should be no need for an additional Federal agency to revisit that determination.

School as Lender

The Committee believes that there is a need to clarify Congressional intent with respect to the school as lender program and put into place additional protections for students whose schools serve as the lender given the inherent conflict of interest that may exist with this arrangement. According to the Government Accountability Office, schools receive a premium for the loans anywhere between two or six percent of the face value of the loans. Under current law, schools are permitted to use the premiums made off of selling the loans for their own purposes, but must use the borrower interest payments and special allowance payments from the government for need based grant programs. For students attending those institutions, the financial aid office is both their lender as well as their financial advisor. The Committee views the school as lender program as an inherent conflict of interest in the school's role, which is first and foremost, to educate the student and second, to ensure that the student is receiving the best financial aid package for his or her financial situation. The Committee Print takes additional steps to reduce the role schools can play as a student's bank by permitting schools to only lend to graduate students, not parents or undergraduate students, and also further restricts where the profits the school is making can be spent. If schools are making money from the program, the Committee believes it should be put back into the need-based aid programs at the school. Through requiring that the schools' profits from its lending programs be put into the need based aid programs; the Committee Print takes one more step to ensure that students receive the funding they truly need to attend college, without forcing the student to take out more costly private loans.

Institutional Default Reduction Initiatives

The Committee Print permanently extends two expiring provisions within the Higher Education Act that provide incentives to institutions to keep their default rates low and assist students in receiving student loan funds without delay. The 1998 Higher Education Act reauthorization provided for a waiver of multiple disbursements required for single term loans, and of a 30-day delay in delivering loan funds to a student who is enrolled in the first year of an undergraduate program of study and who has not previously borrowed. The Committee believes that it is important to extend these two provisions, as they have provided an incentive for institutions of higher education to maintain low default rates and serve to benefit students, who are able to receive Federal student aid funds faster and more efficiently.

Need Analysis – Simplification

Two years ago, Congress tasked the Advisory Committee on Student Financial Assistance, which provides advice and counsel to Congress and the Secretary of Education on student financial aid matters, to conduct a study on options to simplify the student financial aid process. Its primary task was to examine possible changes to the financial aid process to make it more understandable and less complex, especially for low- to moderate-income families, without increasing program costs or reducing program integrity. The final report, *"The Student Aid Gauntlet"* was released with ten major recommendations. In response to Congressional concern that the Advisory Committee had not fulfilled its obligation regarding the potential costs associated with its recommendations, the Advisory Committee claimed that "Eight of the ten recommendations do not require any increase in program costs." The Committee wishes to reiterate that the Advisory Committee's analysis only took into account the cost implications to the Pell Grant program, and not the mandatory cost implications for the student loan program. While minimal, some of the modifications made to the Committee Print as suggested by the Advisory Committee's report have mandatory cost implications. The Advisory Committee's recommendations that were not adopted in the Committee Print would likely have had significant cost implications. The Committee is committed to access and providing streamlined and simplified means for students to access postsecondary education. However, given current budgetary and fiscal constraints, the Committee believes the Advisory Committee should have more appropriately recognized the fiscal barriers that precluded implementation of some of the recommendations.

While many of the reforms of the Advisory Committee were adopted in the Committee Print and have bipartisan support, the Committee remains concerned that the approach taken by the Advisory Committee in its dissemination of the final report to the press prior to delivery to Congressional requesters was careless and inappropriate. The Committee hopes that with a new reauthorization, the Advisory Committee will work together with Congressional leaders to continue the work of providing policymakers with ways to understand and ideas to reform the Federal, State and institutional programs that provide need-based aid to millions of students.

The Committee Print provisions and the amendment offered by Representatives Howard P. "Buck" McKeon (R-CA), Tim Ryan (D-OH) and John Tierney (D-MA) during the consideration of H.R. 609 implement the non-cost related recommendations of the Advisory Committee. The provisions help break down barriers for students and their families that want to pursue the dream of a higher education by directing the Secretary to develop a streamlined application and re-application form and encouraging the Secretary to reduce the number of data elements required on the Free Application for Federal Student Aid (FAFSA). Excessive data elements make the FAFSA confusing and time-consuming, especially for low- and middle-income families and first-generation college students.

The Committee Print aligns eligibility for the Simplified Needs Test (SNT) to other means-tested Federal benefit programs. The Committee believes this alignment will allow more students to take advantage of the simplified application form for SNT eligible students. Additionally, the bill directs the Secretary to develop an EZ-FAFSA to allow auto-zero eligible students access to a simplified paper application.

Additionally, the bill directs the Secretary to submit to students and their families "early estimates" where a student can submit their FAFSA prior to enrollment to obtain an estimate of their financial aid package. The Committee believes this will allow families to plan in advance for their child's education and be more informed about the realities of college cost and the amount of financial aid available.

During the 1992 reauthorization of the Higher Education Act, the bill passed by the House of Representatives included a provision that exempted small business assets from need analysis formula. During the consideration of H.R. 609, Representative Marilyn Musgrave (R-CO) offered, and the Committee accepted, a similar amendment that exempted small business assets from the need analysis formula for families that own a business that employs less than 100 full-time equivalent employees. Under current law, farm equipment and other assets attributed to farms are excluded from the need analysis formula. The Committee believes this same protection should apply to small business owners, who should not be asked to borrow against their way of living to finance a child's education and the modification is included in the Committee Print.

Internal Revenue Service Data Match

The Committee Print contains a provision that will greatly enhance the integrity of Federal student aid programs and will help accomplish the goals of President Bush's initiative to reduce erroneous student aid payments government-wide. The bill provides authorization for the Secretary of Education to work with the Secretary of the Treasury to provide for an Internal Revenue Service (IRS) data match. Multiple Inspector General (IG) reports have found significant evidence of student applicants (either by error or fraud) underreporting income on the student financial aid application and the FAFSA thus gaining eligibility to higher than deserved Pell Grant awards. Statistical test matches between the Department of Education and the IRS confirm the IG findings of significant underreporting (and thus significant overpayments) in the Pell Grant program. IG reports have further concluded that the Department of Education's current verification process is inadequate to address the fraud and error in Pell Grant awards. During the 108th Congress, H.R. 3613, the Student Aid Streamlined Disclosure Act of 2003, was introduced by Representative Sam Johnson (R-TX) and would require the Federal government to improve the verification process for Pell Grant awards through an IRS data match. In addition to helping to reduce the under-awarding of Pell Grant benefits for students who actually qualify for more generous awards, the bill was estimated to free up as much as $340 million that Congress could use to better serve the increasing number of needy students legitimately receiving Pell grants or increase the maximum Pell Grant award for students.

Income Protection Allowance

The Committee Print increases the income protection allowance for dependent students to $3,000 for the 2006-2007 academic year. This increase will offer additional protections for students that need to work while in college without having those hard-earned funds reduce the amount of Federal financial aid awarded to them.

Portable Student Scholarship Treatment

Facing increasing pressure to deal with high college costs and tight budgets, some States are seeking innovative opportunities to focus higher education funding directly on students. Some States are directing the subsidy they traditionally provide to institutions of higher education to individual students in the form of portable scholarships, rather than subsidizing State-level institutions that in turn may serve some students within the State.

For example, the State of Colorado developed the College Opportunity Fund (COF), which links State funding directly to resident undergraduate students. Through the COF, the State is able to be up front with potential students and their parents about the cost of higher education, and the State's willingness to help fund college costs. The State of Colorado will do this by collecting information through performance contracts that will make public information such as: student enrollment, transfer, and graduation rates; student satisfaction and performance; and institutional cost and productivity. Specifically, under the new State system, the State will no longer make direct lump-sum financial transactions to its public institutions for undergraduate education. Instead, funds will go to public and private institutions on behalf of resident undergraduate students in the form of a per-student stipend. Stipends are set annually by the General Assembly in Colorado during the budget process and the allocation is defined on a credit hour basis. The stipend for the 2005-2006 academic year is $2,400 per student for public institutions and $1,200 per student for the participating private institutions.

While these types of state choice programs may appear to direct a large sum of financial aid to students, in reality, it is simply a new methodology for distributing subsidies that have always been provided to higher education. Student financial aid is calculated based on a complex group of factors, including the amount of aid awarded from other sources. Therefore, because this is a new way of awarding funds to students, this type of State higher education subsidy if not protected in Federal law, may actually hinder a student's eligibility for Federal student aid. The Committee believes that students should not lose out on Federal aid simply because their State has chosen an innovative option for funding higher education institutions. The amendment offered by Representative Marilyn Musgrave (R-CO) during the consideration of H.R. 609 and included in the Committee Print simply ensures students will not lose eligibility because of their State higher education funding process.

Return of Title IV

Within the return of title IV funds policy, the Committee Print simply clarifies current law that a program measured in clock hours may, under certain circumstances, use scheduled hours to determine the percentage of the payment period or period of enrollment for which assistance has been earned. The Committee Print makes clear that students are not to return more than 50 percent of the total grant assistance they received. This clarification will assist students from the lowest income families who receive large Pell Grant awards. The amount returned will be only that amount which exceeds the 50 percent remaining after the calculation has been completed. The Committee wishes to alleviate a burden, which falls disproportionately on the lowest income students, while ensuring that students are responsible to return some portion of the grant assistance received from the Federal government when the student withdraws from school. The bill also clarifies that a student will not be required to return sums of $50 or less.

Drug Provision

The Committee believes strongly in providing clarification to the drug ineligibility requirements now in law. Only those students who are enrolled in an institution of higher education and receiving Federal financial aid should be subject to the ineligibility requirements. This will ensure the provision serves the purpose for which it was intended: to serve as a deterrent to prevent drug offenses while students are enrolled in higher education at taxpayer expense, and not to reach back and limit financial aid for past offenses.

Distance Education

In the 1992 reauthorization of the Higher Education Act, Congress enacted provisions to restrict access to title IV funds for institutions offering more than 50 percent of their courses by correspondence or enrolling 50 percent or more of their students in correspondence courses. An unintended and unforeseen result was that the definition of correspondence included telecommunications, which over the last decade has encompassed distance education on the Internet.

In 1998, Congress created the Distance Education Demonstration Program that provides waivers to these rules for participating institutions and created a Commission to study the quality and accessibility of distance education. Internet-based distance education was still relatively new at that time. The Distance Education Demonstration Program was one means to study distance education to determine appropriate changes to the Higher Education Act. The Commission, with former Senator Bob Kerrey as Chairman and then-Congressman Johnny Isakson as Vice-Chairman, and the Distance Education Demonstration Program found that distance education is capable of providing access to millions of students, particularly working adults at a level comparable to on-ground education. Both the Web-based Commission and the Department of Education have recommended the repeal of the 50 percent rules which continue to limit students' access to distance education.

The Committee repeals the application of the 50 percent rule's application to distance education to ensure the higher education system can take advantage of technological advancements that create new opportunities for students and schools. By removing unnecessary barriers to distance education, the Committee believes institutions of higher education will be given the flexibility to increase the use of technology and provide students with new postsecondary options. Financial rules, administrative capability rules, and accreditation safeguards remain in place to prevent fraud and abuse.

The Committee understands that Internet-based distance learning is a mode of learning by which students pursue higher education, courses are conducted and managed, and institutions of higher education expand to reach a new and non-traditional group of students. The Committee further understands that distance learning can be a cost-effective way of educating students through both synchronous (live) and asynchronous (interactive) means. Therefore, the

Committee encourages institutions of higher education to consider the use of "computer transmission," whether synchronous or asynchronous, and "computer conferencing," that is, distance learning, in a way that uses a distributed learning system which ensures secure and encrypted protection for students getting their education through an Internet-based system.

The Committee expects institutions that offer distance education today to have security mechanisms in place, such as identification numbers or other pass code information required to be used each time the student participates in class time or coursework on-line. In time, as technology develops, the Committee anticipates that additional identification technologies will become more sophisticated, less expensive and more mainstream.

In its third report to Congress on the Distance Education Demonstration Program, the Department of Education reports that repeal of the 50 percent rule is necessary to expand access to non-traditional student populations, including minority students. The Committee concurs with the Department's statement:

> *"The advent of distance learning has forever changed this critical segment of our educational system. Indeed, the evidence would suggest that several of the rules that were intended to protect Federal funds have instead protected brick-and-mortar institutions, by limiting Title IV eligibility to institutions that offer primarily on-site courses, and delayed appropriate expansion of this alternative mode of delivery.*
>
> *Along with the development of new delivery modes, the changing demographics of postsecondary education stunts bring into focus the problems arising from the outmoded assumptions that at one time warranted using term structure as a foundation for financial aid rules."*

Gulf Coast Hurricane Relief

On August 29, 2005 Hurricane Katrina, followed shortly by Hurricane Rita, made landfall in the Gulf Coast region, causing massive destruction to property, business and livelihoods in five states. The damage affected over 50 institutions of higher education, 89,000 postsecondary students, and at least 200,000 student loan borrowers. Of the 50 institutions that experienced some type of damage, at the date of this report, at least 39 are still closed. Shortly after the hurricanes hit, the House of Representatives swiftly passed two bills to grant immediate relief to institutions of higher education and students that were affected by the hurricanes. First, the House of Representatives passed H.R. 3668, *the Pell Grant Hurricane and Natural Disaster Relief Act* (P.L. 109-66), introduced by Representative Ric Keller (R-FL) to permit the Secretary of Education to waive the return of funds provision as it relates to Pell Grants for those affected by natural disasters. The House of Representatives also passed H.R. 3863*, the Natural Disaster Student Aid Fairness Act* (P.L. 109-79), that would permit the Secretary of Education to reallocate unused or returned campus-based aid funds to institutions of higher education that were affected by the hurricanes either because the schools were severely damaged or because the schools took in displaced students. On October 6, 2005, the Committee took one further step to address the long term needs of the institutions and students that were affected by these storms by supporting Representative Bobby Jindal (R-LA) who introduced H.R. 3975, *the Hurricane*

Regulatory Relief Act of 2005, a bill providing comprehensive relief for those affected by the hurricanes. The higher education provisions from H.R. 3975 were incorporated in this Committee Print, which permits the Committee to offset the costs of the policies with some of the savings generated through student loan program reforms. By providing an offset for the mandatory spending policies included in these three bills, the Committee guarantees that the funds spent will aid those whose lives have been destroyed by Hurricanes Katrina and Rita while at the same time doing what is best for the country's fiscal interest.

Regulatory Relief

The Committee Print includes a package of regulatory relief for institutions of higher education and students affected by the Gulf Coast hurricanes. Through this relief, the Committee grants the Secretary of Education waiver authority to ensure that financial aid administrators adjust a student's expected family contribution (EFC) to reflect any changes in a student's financial condition due to the hurricanes.

Through the Committee Print, the Secretary is also given the authority to open the Distance Education Demonstration Program (DEDP) to those institutions serving students affected by the hurricanes. By opening up the DEDP, the Committee is ensuring that the same standards and protections that apply to the current demonstration, will also apply here. At the same time, the Committee wants to provide higher education institutions with the utmost flexibility as they try to serve their students – students that have been displaced to all different parts of the country. Distance education is a powerful tool that will allow institutions to connect with students, regardless of where they live. On-line learning opportunities for students displaced by the hurricanes permits those who were in the midst of their studies to continue their degree pursuits and encourage students to stay on track toward graduation, even in the midst of this disaster. Both non-profit and proprietary higher education institutions are able to expand their distance education offerings under the waivers allowed through the DEDP. The provision permits the Secretary to waive the current law limits on the number of participants in the DEDP for up to a year, but once an institution is granted participation in the demonstration, they are eligible for participation for the duration of the authorization.

Student Loan Relief

When students were forced to flee their institutions of higher education when the hurricanes hit, many students were able to continue their studies because institutions in other states opened their doors. All of the waivers, forgiveness and accommodations provided in this legislation will last for one year.

To ease administrative burden, and permit students to begin classes as soon as possible, the Department of Education issued guidance that allowed students to receive a new financial aid package, without taking into account the funds students may have already received.

Under current law, the institutions that were hit by the hurricanes and the students that were displaced would be required to return the unused portion of their student loan funds. The semester had barely started at the majority of the institutions affected, which would result in an institution or student having to return almost all of the student aid funds that were disbursed prior to the hurricane, totaling at least $80 million. Students may have already spent their student aid on items that were destroyed, such as books, rent for housing, or various supplies for their classes.

Many institutions of higher education have announced that they will close at least for the semester, if not longer, to allow damage to be assessed and repaired. In addition to other challenges, private, non-profit institutions cannot immediately receive Federal Emergency Management Agency (FEMA) funds and have faced difficulty in dealing with the Small Business Association (SBA) to obtain lower interest loans. Given that many of these institutions also face extensive damage and students are trying to rebuild their lives both inside and outside of the classroom, the Committee believes it is necessary to require the Secretary to cancel the loans discharged to both students and institutions and not require that either party repay the funds. In canceling the loans disbursed, the bill requires the Secretary to reimburse lenders in FFEL, or institutions participating in the Perkins loan program. This is one sensible solution that the Federal government can enact immediately to ease the financial burdens placed upon the affected students and institutions. In canceling the loans that were disbursed, the Committee Print also states that the loans would not be counted against a student’s annual or aggregate loan limits.

Teachers that are working towards eligibility for loan forgiveness will also find relief in this measure. Current law requires that teachers be highly qualified and work for five consecutive years in a title I school to be eligible for at least $5,000 of loan forgiveness, and in some cases, $17,500 of loan forgiveness in the FFEL and DL programs. Teachers living or working in the areas affected by the hurricanes would have experienced a disruption in their continuous service requirement because either their home was severely damaged or their school was destroyed. This provision, introduced originally by Rep. Tom Cole (R-OK) in H.R. 3788, *the Teacher Loan Hurricane Relief Act*, would waive the continuous service requirement for one year for teachers who cannot work due to the hurricanes.

Finally, the Committee Print will provide relief to student loan borrowers who may have lost their homes, their places of employment, or their jobs due to Hurricanes Katrina and Rita. Adopted from a bill Mr. Miller introduced, H.R. 3690, *the Katrina College Student Relief Act*, and a proposal put forward by the Bush Administration, this provision would provide for a six month deferment for all student loan borrowers affected by the hurricanes. The deferment would permit borrowers to skip payments on loan principal and would also require that the Secretary pay the interest on *all* loans, including subsidized and unsubsidized Stafford loans, subsidized and unsubsidized PLUS loans, consolidation loans and Perkins loans, for six months. Interest would also not accrue on subsidized or unsubsidized Direct Loans. The Committee believes this policy affords student loan borrowers the financial relief they need during a time when they need to rebuild their lives.

Targeting Financial Aid Resources

The Committee Print adopts a provision from H.R. 609 that calls on the Secretary to inform those who qualify for Federal means-tested benefit programs of their potential eligibility for a Pell Grant. The Committee believes that in a time when many families and students are in need following the aftermath of the Gulf Coast hurricanes, any coordinated effort between Federal agencies that provide means-tested Federal assistance will help to promote higher education as a way to assist individuals in rebuilding their lives.

Conclusion

In surveying the programs in the Higher Education Act for purposes of reconciliation, the Committee discovered that many of the good reforms made in H.R. 609, the College Access and Opportunity Act, also relieved some of the pressures the student loan programs place on the American taxpayer. One of the many goals of the Committee was to exit the reconciliation process with reforms that improved the efficiency of the programs and redistributed the financial responsibility. The Committee continues to believe that the Federal investment into higher education is vital to ensuring the viability of the programs. However, the Committee also saw many places where Federal dollars were being spent unnecessarily. Over $4.4 billion of these dollars were infused back into the program through new borrower benefits, such as a reduction in a student-paid fee on loans, increased loan limits, and an equalization of the repayment plans in the FFEL and DL programs. Rather than squander the opportunity with a rubber stamp for the status quo, the Committee members rolled up their sleeves and fought for real changes. The result is a bill that will expand college access while at the same time reducing the excess spending that permeates the student loan programs.

SECTION-BY-SECTION ANALYSIS

TITLE II – COMMITTEE ON EDUCATION AND THE WORKFORCE
Subtitle B – Higher Education

Section 2101. Short Title; table of contents.

States the short title as the "Higher Education Budget Reconciliation Act of 2005." Contains the Table of Contents.

Part 1 – Amendments to the Higher Education Act of 1965

Section 2111. References; effective date.

Establishes the effective date as the date of enactment. States that, unless otherwise noted, any amendment to repeal or amend a section or provision amends or repeals a section or provision of the Higher Education Act of 1965.

Section 2112. Modification of 50/50 Rule.

Repeals the 50 percent rule as it pertains to distance education by telecommunication.

Section 2113. Reauthorization of Federal Family Education Loan program.

Amends section 421(b) to reference loan processing and issuance fee rather than administrative cost allowance.

Amends section 424(a) to extend Federal insurance on student loans to 2012. Further amends section 424(a) to extend Federal insurance on student loans for students who have other loans under this part and are continuing their education through 2016.

Amends sections 428(a) and 428C(e) to continue the authorization for the guaranteed and consolidation loan programs.

Section 2114. Loan limits.

Amends sections 425(a) and 428(b) to increase the maximum annual loan limits for freshmen from $2,625 to $3,500 and for sophomores from $3,500 to $4,500.

Amends section 428C(a) by inserting a new clause (ii) in paragraph (3)(B) to clarify that the underlying loans in a consolidation loan will count against a borrower's aggregate borrowing limits.

Establishes that amendments made by this section will apply to loans made, insured, or guaranteed under part B or part D beginning July 1, 2007.

Section 2115. Interest rates and special allowances.

Amends section 427A(k) to repeal the interest rate change to a fixed interest rate scheduled to take effect in 2006.

Amends section 427A by striking subsection (l) with regards to interest rates for new loans on or after July 1, 2006.

Amends section 455(b) to repeal the interest rate change to a fixed interest rate scheduled to take effect in 2006. Further amends section 455(b) by striking paragraph (7) with regards to interest rates for new loans on or after July 1, 2006.

Further amends section 427A(k) by specifying in the heading of paragraph (4) that the paragraph applies to loans made before July 1, 2006. Further amends section 427A(k) by inserting a new paragraph (5) to provide borrowers a choice between a variable rate and a fixed rate for all consolidation loans made on or after July 1, 2006. Establishes how the interest rates will be determined and establishes an interest rate cap.

Amends section 455(b) by specifying in the heading of subparagraph (D) of paragraph (6) that the subparagraph applies to loans made before July 1, 2006. Further amends section 455(b) by inserting a new subparagraph (E) in paragraph (6) to provide borrowers a choice between a variable rate and a fixed rate for all consolidation loans made on or after July 1, 2006. Establishes how the interest rates will be determined and establishes an interest rate cap.

Makes technical amendment to section 428C.

Makes technical and conforming amendments to section 438(b). Further amends section 438(b) by striking clauses (v), (vi), and (vii) and inserting a new clause (v) in subparagraph (I) of paragraph (2) that requires the annual return of excess interest to the Federal treasury, outlines how the excess interest is to be calculated, and defines the term "special allowance support level." States that the amendments made to this subsection do not apply to any special allowance payments made under this section before July 1, 2006.

Section 2116. Additional loan terms and conditions.

Amends section 428(b) by inserting a new subparagraph (H) in paragraph (1) to require guaranty agencies to collect a single insurance premium equal to no more than 1 percent of the loan principal for loans for which the first disbursement of principal is made before July 1, 2006, or for the collection and deposit into the Federal Student Loan Reserve Fund of a Federal default fee of 1 percent of the loan principal for loans made on or after July 1, 2006. Further amends section 428(b) in paragraph (N) to require the disbursement of loan funds to students attending foreign schools to be sent to the institution but made payable to the student. Also requires the endorsement or other certification by the student. Further amends section 428(b) to prohibit the Secretary from restricting the proportions or ratios by which payments may be graduated with the informed agreement of the borrower. Further amends section 428(b) by inserting a new clause (iv) in subparagraph (A) of paragraph (9) to provide for an interest only repayment plan, so long as the interest amounts to at least $600, for the first two years of repayment.

Amends section 428H(h) to require guaranty agencies with agreements with the Secretary under section 428(b)(1) to, in lieu of the insurance premium, collect and deposit into the Federal Student Loan Reserve Fund a Federal default fee of 1 percent of the loan principal for loans made on or after July 1, 2006.

Amends section 428A(a) by inserting a new subparagraph (C) in paragraph (1) to prohibit the Secretary from waiving the Federal default fee under sections 428(b)(1)(H) and 428H(h).

Amends section 455(d) to make technical and conforming amendments to align repayment plans in part D with repayment plans in part B.

Amends section 438(c) by inserting a new subparagraph heading in paragraph (2) to read: "(A) In General-." Further amends section 438(c) by inserting a new subparagraph (B) within paragraph (2) to gradually reduce origination fees paid by students to 0 percent by 2010 for loans, except consolidation loans, made under part B.

Amends section 455(c) to reduce origination fees to 1 percent by 2010 for loans, except PLUS loans and consolidation loans, made under part D. Further amends section 455(c) by prohibiting the Secretary from waiving any amount of the loan fee prescribed under this section as part of a repayment incentive. Also prohibits the Secretary from providing any repayment incentive before a borrower enters repayment.

Further amends section 438(c) by inserting a new paragraph (9) that establishes a consolidation loan offset charge in an amount not to exceed 1 percent of the principal for consolidation loans.

Further amends section 455(c) by inserting a new paragraph (4) that establishes a consolidation loan offset charge in an amount not to exceed 1 percent of the principal for consolidation loans.

Section 2117. Consolidation loan changes.

Amends section 428C(a) to terminate a student's status as an eligible borrower under this section and section 455(g) upon the receipt of a consolidation loan. Further amends section 428C(a) by inserting a new subclause (V) in clause (i) of subparagraph (B) of paragraph (3) to allow a student who has already consolidated their loan to obtain a subsequent Direct Loan consolidation loan only for the purposes of obtaining an income contingent repayment plan and only if the loan has been submitted to the guaranty agency for default aversion. Further amends section 428C(a) to include a cross-reference to section 428(b)(7)(A) in subclause (I) of clause (ii) of subparagraph (3). Further amends section 428C(a) by striking subparagraph (C) of paragraph (3) with regards to spousal consolidation.

Amends section 428C(b) to require the Secretary to offer any eligible borrower that is denied a consolidation loan, or a consolidation loan with income-sensitive repayment terms, by an eligible lender under subsection (a)(1) of this section, a direct consolidation loan if the eligible borrower submits an application. The Secretary is required to offer such loans to a borrower who has defaulted so that the borrower may resolve the default. Further amends section 428C(b) by requiring lenders of consolidation loans to have an eligible borrower certify, if all of his or her loans are held by a single holder, that he or she has notified that holder of his or her interest in receiving a consolidation loan and strikes language that required borrowers with a single holder to consolidate with that holder. Further amends section 428C(b) by striking an outdated references to a minimum loan balance required for consolidation. Further amends section 428C(b) by inserting a new subparagraph (F) in paragraph (1) that requires the consolidating lender to provide a borrower with a clear and conspicuous notice of the effects of consolidation on a borrower's total interest to be paid, fees and length of repayment; the effects of consolidation on a borrower's underlying loan benefits; the ability of the borrower to pre-pay the loan, pay on a shorter schedule, change repayment plans, and information making clear how borrower benefit programs may vary among lenders and loan holders; the tax benefits for which the borrower might be eligible; the consequences of default; and that by applying for the consolidation loan, the borrower is not obligated to take the loan.

Amends section 428(b) to require the repayment period to begin the day after 6 months after the date the student ceases to carry at least on-half the normal full-time academic workload as determined by the institution.

Establishes the effective date for the amendments under subsection (a)(2)(A) of this section of H.R. 609 as July 1, 2006.

Amends sections 455(a) and 455(g) to align consolidation loans under part D with the requirements of this section.

Amends section 428C(f)(2) by adding at the end, a new subparagraph stating that for consolidation loans based on applications received on or after the date of enactment, if 90 percent of more of the total principal outstanding on the loans held, directly or indirectly, by any holder is comprised of principal owed on consolidation loans, the rebate described in paragraph (1) for such holder is equal to 1.30 percent of the principal plus accrued unpaid interest on such loans.

Section 2118. Deferment of student loans for military service.

Amends section 428(b) by inserting a new clause (iii) in subparagraph (M) of paragraph (1) to provide loan deferments for up to three years for individuals serving on active duty or performing National Guard duty during a war or other military operation or emergency.

Amends section 455(f) by inserting a new subparagraph (C) in paragraph (2) to provide loan deferments for up to three years for individuals serving on active duty or performing National Guard duty during a war or other military operation or emergency.

Amends section 464(c) by inserting a new clause (iii) in subparagraph (A) of paragraph (2) to provide loan deferments for up to three years for individuals serving on active duty or performing National Guard duty during a war or other military operation or emergency.

Amends section 481 by inserting a new subsection (d) that defines the terms "Active Duty," "Military Operation," "National Emergency," "Serving on Active Duty," and "Qualifying National Guard Duty."

States that nothing in these amendments authorizes the refunding of any repayment on a loan.

Establishes the effective date for these amendments as applying to loans disbursed on or after July 1, 1993.

Section 2119. Loan forgiveness for service in areas of national need.

Rewrites section 428K to amend the Loan Forgiveness for Child Care Providers program. Renames the program the Loan Forgiveness for Service in Areas of National Need program. Outlines the purposes of the section. Authorizes the Secretary to assume the obligation to repay a qualified loan amount for a loan made, insured, or guaranteed under this part or part D (excluding PLUS and consolidated loans) by a borrower who has been employed full-time for at least five consecutive complete school, academic, or calendar years in an area of national need, and is not in default on a loan for which the borrower seeks forgiveness. Forgiveness is awarded on a first-come, first-served basis subject to the availability of appropriations. Identifies the areas of national need as being early childhood educators, nurses, foreign language specialists, librarians, highly qualified teachers of bilingual education in low-income communities, first responders in low-income communities, child welfare workers, and speech-language pathologists. Provides the Secretary the authority to designate the areas of national need. Establishes the qualified loan amount as being not more than $5,000. Prohibits a borrower from receiving a benefit for the same service under both this section and subtitle D of title I of the National and Community Service Act of 1990. Prohibits a borrower from receiving a reduction of loan obligations under both this section and sections 428J or 460. Defines the terms "Child Care Facility," "Critical Foreign Language," "Early Childhood Educator," "Eligible Preschool Program," "Low-Income Community," "Nurse," and "Speech-Language Pathologist." Authorizes such sums as may be necessary for fiscal years 2006-2011.

Section 2120. Unsubsidized Stafford Loans.

Amends section 428H(d) to increase the maximum annual loan limits for unsubsidized loans for graduate students from $10,000 to $12,000.

States that this amendment will apply to loans made on or after July 1, 2007.

Section 2121. Elimination of termination dates from Taxpayer-Teacher Protection Act of 2004.

Amends section 438(b) as amended by the Taxpayer-Teacher Protection Act of 2004 to eliminate the termination dates for special allowance payments. Further amends section 438(b) by inserting a new clause (vi) in subparagraph (B) of paragraph (2) to require the quarterly rate of the special allowance to be the rate determined under subparagraphs (A), (E), (F), (G), (H), or (I) for a holder of loans that were made or purchased on or after October 1, 2005, or for a holder of loans that were not earning a quarterly rate of special allowance determined in this subsection as of October 1, 2005.

Amends section 3(b) of the Taxpayer-Teacher Protection Act of 2004 by striking paragraph (3) with regards to the effective date for new borrowers to be eligible for loan forgiveness.

Amends section 428J(a) by including a cross-reference to a new subsection (g)(3).

Amends section 428J(c) by inserting a new subparagraph (C) in paragraph (3). The new subparagraph (C) includes elementary or secondary school teachers who primarily teach reading. To qualify, such teachers must meet the requirements of subsection (b) of this section, have obtained a separate reading instruction credential from the State in which the teacher is employed and be certified by the chief administrative officer of the public or non-profit private elementary or secondary school in which the borrower is employed to teach reading as being proficient in teaching the essential components of reading instruction and as having such credential.

Amends section 428J(g) by inserting a new paragraph (3) to establish guidelines for private school teachers to qualify under this section for the loan forgiveness.

Amends section 460(a) by inserting a cross-reference to a new subsection (g)(3).

Amends section 460(g) by inserting a new paragraph (3) to establish guidelines for private school teachers to qualify under this section.

Section 2122. Loan fees from lenders.

Amends section 438(d)(2) to add a new subparagraph (2) to establish that 1 percent must be deducted off of any loan for which the first disbursement is made on or after July 1, 2006

Section 2123. Additional administrative provisions.

Amends section 428(b) to require 100 percent insurance on “exempt claims.” Further amends section 428(b) by changing the insurance rate from 98 percent to 96 percent in the case of a loan for which the first disbursement of principal is made or on after July 1, 2006.

Amends section 428(c) by inserting a new subparagraph (G) in paragraph (1) to require 100 percent reinsurance on “exempt claims” and define “exempt claims” under this new subparagraph. Further amends section 428(c) to eliminate the requirement that forbearance agreements be documented in writing. Further amends section 428(c) by inserting a new paragraph (10) that requires forbearance agreements to be recorded and confirmed with the borrower. Further amends section 428(c) by inserting a heading for clause (i) in paragraph (2)(A) and inserting a new clause (ii) to require the guaranty agreements to include requirements establishing procedures to preclude consolidation lending from being an excessive proportion of guaranty agency recoveries on defaulted loans. Further amends section 428(c) by amending a cross-reference by re-designating certain subparagraphs as clauses, and by adding new subparagraphs (B) and (C). The new subparagraphs require guaranty agencies, beginning October 1, 2006, to not charge collection costs that are more than 18.5 percent of the outstanding principal and interest of a defaulted loan that is paid off through consolidation; return to the Secretary a portion of the collection charge equal to 8.5 percent of the outstanding principal and interest of such defaulted loan; and, beginning October 1, 2009, to return to the Secretary the entire amount charged with respect to each defaulted loan that is paid off with excess consolidation proceeds. The new subparagraphs also define the term “excess consolidation proceeds.” Further amends section 428(c)(6)(B) to add a subclause (II) in clause (ii) that changes 24 percent to 20 percent after October 1, 2006.

Amends section 428I which outlines the rules for exceptional performance. States that the Secretary is required to designate eligible lenders and servicers that meet certain performance measures for exceptional performance, and to notify the guaranty agencies of the lenders and servicers receiving the designation. Outlines the performance measures eligible lenders and servicers must meet to receive the designation. Requires each guaranty agency to provide the Secretary with other information in its possession regarding lenders and servicers requesting the exceptional performance designation from the Secretary. Outlines the basis for the Secretary’s decision. States that any lender or servicer designated for exceptional performance as of the day before the date of enactment of the Higher Education Budget Reconciliation Act of 2005 shall continue to be so designated and subject to the requirements of this section as in effect on that day until the performance standards described in this section are established. Prohibits the Secretary from designating any additional lenders or servicers until the new performance standards are established. Requires guaranty agencies to pay, to each eligible lender or servicer, 98 percent of the unpaid principal and interest of all loans for which claims are submitted for payment by that eligible lender or servicer for the one year period following the receipt by the guaranty agency of the notification of designation under this section, or until the guaranty agency receives notice from the Secretary that the designation of the lender or servicer has been revoked. Requires the Secretary to revoke the exceptional performance designation if a lender or servicer fails to meet the performance standards, gained the designation through fraud, or is failing to operate in accordance with regulations. States that this section does not limit the ability of guaranty agencies to require the submission of claims documentation evidencing servicing performed on loans, except that the guaranty agency may not require greater documentation than that required for lenders and servicers not receiving the exceptional performance designation. States that loans reimbursed under this section will not be subject to additional review by the Secretary or repurchase by the guaranty agency unless a determination is made by the Secretary that the lender or servicer engaged in fraud or other purposeful misconduct in obtaining the exceptional performance designation. Grants the Secretary the authority to terminate the exceptional performance designation of lenders and servicers if he or she determines that the termination would be in the best interests of the United States. Defines the terms "Eligible Loan" and "Servicer." Establishes the effective date of these amendments as July 1, 2006. Makes additional technical amendments.

Amends section 428A(a) by striking the authority of the Secretary to waive the prohibition on inducements under certain circumstances within the Voluntary Flexible Agreements (VFA).

Amends section 428A(c) by striking the existing paragraph (3) and inserting a new paragraph (3) that requires the Secretary to publish notification in the Federal Register of any new agreements and allow public comment on the proposed agreement prior to final approval.

Amends section 428B(a)(1) by adding at the end, a new subparagraph which requires parents convicted of or who have plead guilty to a crime involving fraud in obtaining funds under this title complete repayment of the funds to the Secretary before they are eligible to receive additional funds.

Amends section 428F(a) to strike the requirement for 12 months of consecutive payments and insert a requirement for nine payments made within 20 days of the due date during 10 consecutive months. Further amends section 428F(a) by inserting a new subparagraph (C) of paragraph (1) to codify the collection costs permissible for rehabilitated loans at up to 18.5 percent of the outstanding principal and interest of the loan.

Amends section 428F by inserting a new subsection (c) that requires, where appropriate, each program described under subsection (b) of section 428F to make available financial and economic education materials for the borrower.

Amends section 432(k) to require the Secretary to provide financial and economic education and counseling.

Amends section 430A(a) to require loan holders to report loan information to all national credit bureaus.

Amends section 432(l) to include the anticipated graduation date.

Amends section 432 by striking subsection (n) with regards to Default Reduction Management.

Amends section 435(d) by amending paragraph (2) to establish new requirements for institutions to become an eligible lender in the FFEL program. Establishes that an eligible institution is permitted to use a portion of the proceeds from special allowance payments, interest payments from borrowers, interest subsidies from the Department, and any proceeds from the sale or other disposition of loans for need based aid and reasonable, direct administrative expenses. Requires an institution to ensure that the proceeds received under this paragraph are used to supplement, and not supplant, non-Federal funds that would otherwise be used for need-based grant programs. Prohibits schools from acting as PLUS lenders and as lenders to undergraduate students.

Amends section 437(a) to state that a borrower who has been certified as permanently and totally disabled by the Department of Veteran Affairs or the Social Security Administration will not be required to present further documentation.

Amends section 437(c) to include a parent's eligibility within the false certification section.

Amends section 439(d) by striking paragraph (3) with regards to the perfection of security interests in student loans.

Amends section 428(a) by inserting a new subclause (III) of clause (v) of subparagraph (A) of paragraph (3) to prohibit a lender from receiving interest on a loan disbursed through an escrow agent for any period that precedes the date that is 3 days before the first disbursement of the loan.

Further amends section 428(c) by requiring a guaranty agency to file a claim for reimbursement with respect to losses under this subsection within 30 days after the agency discharges its insurance obligation on the loan rather than 45 days.

Amends section 428(i) by amending from 21 days to 10 the timeline for lenders to make payments into the escrow account prior to the date of the disbursement of the installment to the borrowers.

Amends section 428G(e) by striking the reference that limits the applicability of this subsection to foreign institutions.

Amends section 428H(e) by striking paragraph (6) and inserting a new paragraph (6) to prohibit a lender from receiving interest on a loan under this section for any period that precedes the dates described in section 428(a)(3)(A)(v).

Amends section 438(b) to require the daily interest to be computed using the interest rate described in section 3902(a) of title 31, United States Code.

Makes technical amendments.

Section 2124. Funds for administrative expenses.

Amends section 458(a) by adding a paragraph (1) that authorizes $820,000,000 in fiscal year 2006 to be used for administrative costs under this part and part B and account maintenance fees payable to guaranty agencies under part B and calculated in accordance with subsections (b) and (c). Further amends section 458(a) in paragraph (2) to authorize for fiscal years 2007 through 2011 such sum as may be necessary for administrative costs under this part and part B. Further amends section 458(a) in paragraph (3) to authorize for fiscal years 2007 through 2011, there shall be available to the Secretary, from funds not otherwise appropriated, funds to be obligated for account maintenance fees payable to guaranty agencies under part B and calculated in accordance with (b).

Amends section 458(b) by establishing that the calculation basis will be 0.10 percent of the original principal amount of outstanding loans on which insurance was issued under part B.

Amends section 458(c) by requiring that no funds may be expended under this section unless the Secretary of Education includes an annual budget justification to Congress.

Section 2125. Significantly simplifying the student aid application process.

Amends section 479(b) by striking clause (i) of subparagraph (A) of paragraph (1) and inserting a new clause (i) to redefine the requirements a dependent student must meet to be eligible to file the simplified needs test. Further amends section 479(b) by striking clause (i) of subparagraph (B) of paragraph (1) to redefine the requirements an independent student must meet to be eligible to file the simplified needs test.

Amends section 479(c) by striking subparagraph (A) of paragraph (1) and inserting a new subparagraph (A) to redefine the characteristics a dependent student must meet in order to be considered as having an expected family contribution of zero. Further amends section 479(c) by striking subparagraph (A) of paragraph (2) and inserting a new subparagraph (A) to redefine the characteristics an independent student must meet in order to be considered as having an expected family contribution of zero.

Amends section 479 by inserting new subsections (d) and (e) to define the term "Means-Tested Federal Benefit Program" and require the Secretary to regularly evaluate the impact of the eligibility guidelines in this section to ensure that the simplified needs test continues to be targeted to the maximum number of low- and moderate-income students.

Amends section 483(a) by striking paragraphs (1), (2), and (5) and redesignating certain paragraphs. Further amends section 483(a) by inserting new paragraphs (1) through (8). Paragraph (1) requires the Secretary to cooperate with student financial assistance organizations to produce, distribute, and process free of charge common financial reporting forms to be used for determining financial need and eligibility. The forms should be in both paper and electronic format and should be referred to as “Free Application for Federal Student Aid” or “FAFSA.” Paragraph (2) requires the Secretary to permit applicants to complete such forms in the years prior to enrollment in order to obtain a non-binding estimate of the family contribution, and requires the Secretary to evaluate the differences between the estimates and the actual determinations two years after this paragraph is implemented and submit a report to the authorizing committees of Congress on the results of the evaluation. Paragraph (3) requires the Secretary to develop a common paper form and an EZ FAFSA for students with an expected family contribution of zero. Outlines what is to be included in the EZ FAFSA. Requires the Secretary to encourage applicants to use the electronic FAFSA forms that the Secretary must maintain. Outlines how the Secretary must maintain the electronic forms. Requires the Secretary to report annually to Congress on the impact of the digital divide on students completing applications for title IV aid and steps being taken to eliminate the divide. Paragraph (4) requires the Secretary to develop a common electronic form. Outlines what is to be included on the form. Requires the Secretary to develop a simplified electronic application for students with an expected family contribution of zero. Outlines what is to be included on the simplified form. Requires the Secretary to ensure that electronic data collection protects applicants’ privacy and permits the Secretary to allow electronic forms to be submitted without a signature if the signature is subsequently submitted by the applicant. Paragraph (5) requires the Secretary to develop a streamlined reapplication process. The Secretary is also required to continue reducing the data elements on the FAFSA and report on this to Congress. Paragraph (6) requires the Secretary, in consultation with Sate agencies, to include on the forms such State-specific data items as the Secretary determines are necessary. Requires the Secretary to conduct an annual review. Requires the Secretary to encourage States to take steps to encourage the use of simplified application forms. Requires the Secretary to annually publish in the Federal Register a notice requiring State agencies to inform the Secretary if the State is unable to utilize the simplified application forms and the State-specific data that the State agency requires for delivery of State need-based aid. Requires State notification to the Secretary regarding the use of application forms. Requires the Secretary, if the State does not provide proper notice, to permit residents of the State to complete simplified forms and not require them to complete any data previously required by that State. Paragraph (7) prohibits the Secretary from charging students or parents for the use of the FAFSA in any of its forms. Requires the use of the FAFSA for determining need for aid under most title IV programs. Requires organizations that charge students and parents to assist them with the filing of a FAFSA to provide several notices regarding the nature of the FAFSA. Paragraph (8) requires the Secretary to initiate the processing of forms under this section as early as practicable prior to January 1 of the student’s planned year of enrollment.

Amends section 482(a) to require proposed modifications, updates, and notices to be published in the Federal Register by March 1.

Amends section 483 by inserting a new subsection (e) to require the Secretary to utilize savings accrued by moving more applicants to the electronic form to improve access to the electronic forms for students with an expected family contribution of zero.

Amends section 480(d) by striking paragraph (2) and inserting a new paragraph (2) with regards to include in the definition of "Independent Student" any student who is an orphan, in foster care, or a ward of the court, or was in foster care or a ward of the court until the individual reached the age of 18.

Section 2126. Additional need analysis amendments.

Amends section 475(g) to increase the dependent student work protection allowance from $2,200 to $3,000 beginning July 1, 2006.

Amends 478(b) to clarify that for each academic year after academic year 2006-07, the Secretary shall publish a revised income protection allowance that is developed by increasing the dollar amount contained in the section by a percentage equal to the estimated percentage increase in the Consumer Price Index.

Amends section 478(h) by striking an incorrect cross-reference and clarifying what expenses are allowable under the employment expense allowance.

Amends section 479A(a) by inserting a new heading for the subsection and a new paragraph (1). Further amends section 479A(a) by inserting a new paragraph (2). Further amends section 479A(a) to include a student's status as a ward of the court before turning 18, a homeless or unaccompanied youth under section 725 of the McKinney-Vento Act, and an individual who was adopted at or after age 13 as special circumstances under the new paragraph (2). Further amends section 479A(a) by inserting new paragraphs (3) and (4) as technical amendments.

Amends section 480(d) to treat active duty members of the military as independent students for purposes of need analysis.

Amends section 480(e) by inserting a new paragraph (5) to exclude distributions from a qualified tuition program established under section 529 of the Internal Revenue Code of 1986 that is not included in gross income calculations under section 529.

Amends section 480(f) with regards to the definition of assets by including qualified tuition programs established under section 529 of the Internal Revenue Code of 1986. Further amends section 480(f) by inserting a new paragraph (2) to clarify that qualified tuition programs under section 529 of the Internal Revenue Code of 1986 will not be treated as an asset for a dependent student under section 475. The new paragraph (2) also clarifies how the value of a qualified tuition program will be calculated for the purposes of determining the assets of parents or independent students.

Amends section 480(j) by striking "; Tuition Prepayment Plans" from the heading of the subsection, striking paragraph (2), and inserting language in paragraph (3) to exclude distributions from a qualified tuition program under section 529 of the Internal Revenue Code of 1986 that are not includable in gross income calculations from counting as a resource. Further amends section 480(j) by inserting a new paragraph (3) that excludes assistance not received under this title from both estimated financial assistance and cost of attendance, if that assistance is designated by the State providing that assistance to offset a specific component of the cost of attendance. This new paragraph also states that if the assistance is excluded from either estimated financial assistance or cost of attendance, it must be excluded from both.

Further amends section 480(f) by inserting a new subparagraph (C) in paragraph (3) that exempts small businesses with 100 or fewer full-time or full-time equivalent employees that is owned or controlled by the family.

Section 2127. Definition of eligible program.

Amends section 481(b) by inserting a new paragraph (3) to include within the definition of eligible program an instructional program that utilizes direct assessment of student learning or recognizes the direct assessment of student learning by others in lieu of credit hours or clock hours as the measure of student learning. This eligibility determination must be made by the Secretary for institutions being deemed eligible for the first time. Requires the Secretary to provide an annual report to Congress identifying the programs made eligible under this paragraph.

Section 2128. Distance education.

Amends section 481(b) by inserting a new paragraph (4) to provide a definition of distance education as an eligible program for title IV purposes.

Amends section 484(l) by striking the one year or longer program of study requirement for a telecommunication course to not be considered a correspondence course; and, by striking the requirement that less than 50 percent of an institution's courses be telecommunications or correspondence courses in order for telecommunications courses to not be considered correspondence courses. Further amends section 484(l) by excluding institutions described in the Carl D. Perkins Vocational and Technical Education Act of 1998.

Section 2129. Student eligibility.

Amends section 484(a) by inserting a new paragraph (6) that requires students who have plead guilty or no contest to a crime involving fraud in obtaining funds under this title, to have fully repaid the funds to the Secretary or to the holder of a loan before being considered eligible.

Amends section 484(b) to include incarcerated parents among those not eligible for Federal loans. Further amends section 484(b) by prohibiting a student who is subject to an involuntary civil commitment upon completion of a period of incarceration for a sexual offense (as determined by the Secretary) from being eligible for a loan under this title.

Amends section 484(j) to clarify that students from the freely associated states will only be eligible for Pell Grants.

Amends section 484(q) to include a specific reference to the Internal Revenue Code of 1986 to define what information the Secretary will have access to.

Amends section 484(r) by striking paragraph (1) and inserting a new paragraph (1) to clarify that only those students enrolled and receiving student aid under title IV at the time of the conviction will lose student aid eligibility.

Section 2130. Institutional refunds.

Amends section 484B(a) to clarify that LEAP funds are excluded from the requirements of this section. Further amends section 484B(a) to allow for multiple leaves of absence. Further amends section 484B(a) to provide a cross-reference to subsection (d) to determine how the percentage of the enrollment period or payment period that has been completed will be calculated. Further amends section 484B(a) to require the institution to contact a student who is eligible for a late disbursement or post-withdrawal disbursement and obtain confirmation that the loan funds are still required by the student, explain to the student his or her obligation to repay the funds, and document in his or her file the result of such contact and the final determination.

Amends section 484B(b) to provide an institution with 45 days from the date of the determination that a student has withdrawn to return the loan funds. Further amends section 484B(b) to clarify the rule that protects 50 percent of a student's grant funds. Further amends section 484B(b) by stating that students do not have to return amounts of $50 or less.

Amends section 484B(d) by making technical amendments. Further amends section 484B(d) by amending subparagraph B of paragraph (2) to mean the clock hours scheduled to be completed by the student in the period as of the last date of attendance, not to exceed 150 percent of the hours completed by the student in the period.

Section 2131. College access initiative.

Amends part G by inserting a new section 485D to create a college access initiative. This new section will require the Secretary to direct each guaranty agency to gather information on programs and student aid available in the State in which the agency is designated. The information must be made available to the public free of charge and be reported to the Secretary to establish a directory of programs through web sites, publications, and other means determined by the Secretary. The new section requires each guaranty agency to establish a plan to gather and disseminate the information required. The new section outlines the information required from the guarantors and the activities the guarantors must undertake. The new section permits guarantors to utilize funds from operating funds pursuant to section 422B and, if any funds remain, from earnings on the restricted accounts under section 422(h)(4). The new section requires the Secretary and guaranty agencies to publicize the availability of the information within 270 days of enactment of this Act, particularly to traditionally underrepresented populations.

Section 2132. Cancellation of Student Loan Indebtedness for Survivors of Victims of the September 11, 2001, Attacks.

Defines the terms "Eligible Public Servant," "Eligible Victim," "Eligible Parent," "Secretary," and "Federal Student Loan."

Requires the Secretary to provide for the discharge or cancellation of the Federal student loan indebtedness of the spouse of an eligible public servant, the portion of a Federal consolidation loan incurred on behalf of the eligible victim that was used jointly by the eligible victim and his or her spouse, the portion of the consolidation loan indebtedness of an eligible parent that was incurred on behalf of an eligible victim, and the PLUS loan indebtedness of an eligible parent that was incurred on behalf of an eligible victim.

Outlines the methods to be used to cancel or discharge eligible loans.

Requires the Secretary to establish procedures for the filing of applications and to publicize the availability of loan discharge or cancellation.

States that funds available for the purposes of making payments to lenders in accordance with section 437(a) shall be available for making payments to lenders as required by this section.

States that the provisions of this section shall be applied to loans on which amounts were owed on September 11, 2001.

Section 2133. Independent evaluation of distance education program.

Requires the Secretary of Education to enter into an agreement with the National Academy of Sciences to conduct an evaluation on the quality of distance education programs, as compared to campus-based education programs. The evaluation shall: identify the elements by which the quality of distance education as compared to campus-based education programs can be assessed; identify the success of distance education and campus-based education with respect to student achievement; and identify the types of students who most benefit from distance education programs and campus-based education programs. Requires an interim report to be submitted to the Secretary of Education, Committee on Health, Education, Labor and Pensions, and Committee on

Education and the Workforce not later than December 31, 2007 and a final report on December 31, 2009.

Section 2134. Disbursement of Student Loans.

Amends section 422(d) of the Higher Education Amendments of 1998 to establish an effective date for the amendments of July 1, 2006.

Part 2 – Higher Education Relief

Section 2141. References.

States that references in this part to "the Act" are references to the Higher Education Act of 1965.

Section 2142. Waivers and modifications.

Authorizes the Secretary of Education to waive or modify any statutory or regulatory provision applicable to the student financial assistance programs under title IV or any student eligibility provisions in the Act as she deems necessary in connection with the Gulf hurricane disaster to ensure that: the calculation of expected family contribution under section 474 of the Act is modified to reflect any changes in financial condition of an affected students and his or her family resulting from a Gulf hurricane disaster; and institutions of higher education, systems of education, or consortia of institutions that are located in an area affected by a Gulf hurricane disaster, or that are serving affected students, are eligible, notwithstanding section 486(d) of the Act, to apply for participation in the distance education demonstration program.

Section 2143. Cancellation of institutional repayment by colleges and universities affected by a Gulf hurricane disaster.

Requires the Secretary of Education to cancel any obligation of an affected institution to return or repay any funds the institution received before the date of enactment of this Act for, or on behalf of, students under subpart 1 or 3 of part A or parts B, C, D, E of title IV of the Act for any cancelled enrollment period.

Section 2144. Cancellation of student loans for cancelled enrollment periods.

Requires the Secretary of Education to discharge all loan amounts under parts B and D of title IV of the Act and cancel any loan made under part E of title IV, disbursed to, or on behalf of, an affected student for a cancelled enrollment period. Further requires the Secretary of Education to reimburse affected institutions for any amounts discharged under subsection (a) with respect to a loan under part E of title IV and to reimburse lenders for the purpose of discharging any loan amounts disbursed to, or on behalf of, an affected student under part B of title IV. Limits the amount discharged for a loan made under section 428C or a Federal Direct Consolidation Loan to the extent that such loan amount was used to repay a loan to an affected student for a cancelled enrollment period.

Section 2145. Temporary deferment of student loan repayment.

Permits an affected individual that is a borrower of a qualified student loan or a qualified parent loan to be granted a deferment, not in excess of 6 months, during which periodic installments of principal need not be paid and interest shall accrue and be paid by the Secretary in the case of loan made under sections 428, 428B, 428C, or 428H of the Act or shall accrue and be paid by the Secretary to the Perkins loan fund held by the institution of higher education that made the loan in the case of loan made under part E of title IV, or shall not accrue in the case of a Federal Direct Loan.

Section 2146. No affect on grant and loan limits

States that notwithstanding any provision of title IV of the Act, or any regulation issued thereunder, no grant or loan funds received by an affected student under title IV for a cancelled enrollment period shall be counted against such affected student's annual or aggregate grant or loan limits for the receipt of grants or loans under that title.

Section 2147. Teacher loan relief

Permits the Secretary of Education to waive the requirements of sections 428J(b)(1) and 460(b)(1)(A) of the Act that the 5 years of qualifying service be consecutive academic years for any teacher whose employment was interrupted if the teacher was employed in qualifying service at the time of a Gulf hurricane disaster, in a school located in an area affected by a Gulf hurricane disaster and the teacher resumes qualifying service not later than the beginning of academic year 2006-2007 in that school or any other school in which employment is qualifying service under such section.

Section 2148. Expanding information dissemination regarding eligibility for Pell Grants.

States that the Secretary of Education will make special efforts, in conjunction with State efforts, to notify affected students and, if applicable, their parents, who qualify for means-tested Federal benefit programs, of their potential eligibility for a maximum Pell Grant, and shall disseminate such informational materials as the Secretary of Education deems appropriate.

Defines "means-tested" federal benefit program.

Section 2149. Procedures

States that sections 482(c) and 492 of the Act shall not apply to any waivers, modifications or actions initiated by the Secretary of Education under this part.

Section 2150. Termination of authority.

States that the authority of the Secretary of Education to issue waivers and modifications under this part shall expire at the conclusion of the 2005-2006 academic year, but the expiration of such authority shall not affect the continuing validity of any such waivers or modifications after such academic year.

Section 2151. Definitions.

Defines “affected individual,” “affected institution,” “affected state,” “affected student,” “area affected by a Gulf hurricane disaster,” “cancelled enrollment period,” “Gulf hurricane disaster,” “institution of higher education,” “qualified student loan,” “qualified parent loan.”

EXPLANATION OF AMENDMENTS

The provisions of the substitute are explained in this report.

APPLICATION OF LAW TO THE LEGISLATIVE BRANCH

Section 102(b)(3) of Public Law 104-1 requires a description of the application of this bill to the legislative branch. The Committee Print amends the Higher Education Act of 1965 by providing increase access for students to a higher education. The bill does not prevent legislative branch employees from receiving services provided under this legislation.

UNFUNDED MANDATE STATEMENT

Section 423 of the Congressional Budget and Impoundment Control Act (as amended by Section 101(a)(2) of the Unfunded Mandates Reform Act, P.L. 104-4) requires a statement of whether the provisions of the reported bill include unfunded mandates. The Committee Print reauthorizes spending programs under the Higher Education Act. As such, the bill does not contain any unfunded mandates.

ROLLCALL VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee Report to include for each record vote on a motion to report the measure or matter and on any amendments offered to the measure or matter the total number of votes for and against and the names of the Members voting for and against.

Roll Call #1, Amendment #7 offered by Mr. Bishop regarding tax table updates in Pell Grants was defeated:

On amendment #7 offered by Mr. Bishop, roll call #1, the following members voted “No:”

Mr. Boehner, Mr. Petri, Mr. McKeon, Mr. Castle, Mr. Johnson, Mr. Souder, Mr. Norwood, Mr. Ehlers, Mrs. Biggert, Mr. Tiberi, Mr. Keller, Mr. Osborne, Mr. Wilson, Mr. Porter, Mr. Kline, Mrs. Musgrave, Mr. Inglis, Ms. McMorris, Mr. Marchant, Mr. Price, Mr. Fortuño, Mr. Boustany, Mrs. Foxx, Mrs. Drake, and Mr. Kuhl. Total 25

The following members voted "Aye:"

Mr. Miller, Mr. Kildee, Mr. Owens, Mr. Payne, Mr. Andrews, Mr. Scott, Ms. Woolsey, Mr. Hinojosa, Mrs. McCarthy, Mr. Tierney, Mr. Kind, Mr. Kucinich, Mr. Wu, Mr. Holt, Mrs. Davis, Ms. McCollum, Mr. Davis, Mr. Grijalva, Mr. Van Hollen, Mr. Ryan, Mr. Bishop, and Mr. Barrow. Total 22

Pursuant to Unanimous Consent agreement, Mr. Jindal is recorded as "No."

Roll Call #2, Amendment #2 offered by Mr. Miller, and Amendment in the Nature of a Substitute was defeated:

On amendment #2 offered by Mr. Miller, the following members voted "No:"

Mr. Boehner, Mr. Petri, Mr. McKeon, Mr. Castle, Mr. Johnson, Mr. Souder, Mr. Norwood, Mr. Ehlers, Mrs. Biggert, Mr. Platts, Mr. Tiberi, Mr. Keller, Mr. Osborne, Mr. Wilson, Mr. Porter, Mr. Kline, Mrs. Musgrave, Mr. Inglis, Ms. McMorris, Mr. Marchant, Mr. Price, Mr. Fortuño, Mr. Jindal, Mr. Boustany, Mrs. Foxx, Mrs. Drake, and Mr. Kuhl. Total 27

The following members voted "Aye:"

Mr. Miller, Mr. Kildee, Mr. Owens, Mr. Payne, Mr. Andrews, Mr. Scott, Ms. Woolsey, Mr. Hinojosa, Mrs. McCarthy, Mr. Tierney, Mr. Kucinich, Mr. Wu, Mr. Holt, Mrs. Davis, Ms. McCollum, Mr. Davis, Mr. Van Hollen, Mr. Ryan, Mr. Bishop, and Mr. Barrow. Total 20

Pursuant to Unanimous Consent agreement, Mr. Kind and Mr. Grijalva are recorded as "Aye."

Roll Call #3, Amendment #3 offered by Mr. Petri regarding direct lending was defeated:

On amendment #3 offered by Mr. Petri, the following members voted "No:"

Mr. Boehner, Mr. McKeon, Mr. Castle, Mr. Johnson, Mr. Souder, Mr. Norwood, Mr. Ehlers, Mrs. Biggert, Mr. Platts, Mr. Tiberi, Mr. Keller, Mr. Osborne, Mr. Wilson, Mr. Porter, Mr. Kline, Mrs. Musgrave, Mr. Inglis, Ms. McMorris, Mr. Marchant, Mr. Price, Mr. Jindal, Mr. Boustany, Mrs. Foxx, Mrs. Drake, Mr. Kuhl, Mr. Andrews, and Mr. Hinojosa. Total 27

The following members voted "Aye:"

Mr. Petri, Mr. Miller, Mr. Kildee, Mr. Owens, Mr. Payne, Mr. Scott, Mrs. McCarthy, Mr. Tierney, Mr. Kucinich, Mr. Wu, Mr. Holt, Mrs. Davis, Ms. McCollum, Mr. Davis, Mr. Van Hollen, Mr. Bishop, and Mr. Barrow. Total 17

Pursuant to Unanimous Consent agreement, Mr. Fortuño is recorded as “No” and Mr. Kind, Mr. Grijalva, and Mr. Ryan are recorded as “Aye.”

Roll Call #4, Amendment #4 offered by Mr. Van Hollen regarding the Default Fees was defeated:

On Amendment #4 offered by Mr. Van Hollen, the following members voted “No:”

Mr. Boehner, Mr. Petri, Mr. McKeon, Mr. Castle, Mr. Johnson, Mr. Souder, Mr. Norwood, Mr. Ehlers, Mrs. Biggert, Mr. Platts, Mr. Tiberi, Mr. Keller, Mr. Osborne, Mr. Wilson, Mr. Porter, Mr. Kline, Mrs. Musgrave, Mr. Inglis, Ms. McMorris, Mr. Marchant, Mr. Price, Mr. Jindal, Mr. Boustany, Mrs. Foxx, Mrs. Drake, Mr. Kuhl. Total 26

The following members voted “Aye:”

Mr. Miller, Mr. Kildee, Mr. Owens, Mr. Payne, Mr. Andrews, Mr. Scott, Ms. Woolsey, Mr. Hinojosa, Mrs. McCarthy, Mr. Tierney, Mr. Kucinich, Mr. Wu, Mr. Holt, Mrs. Davis, Ms. McCollum, Mr. Davis, Mr. Van Hollen, Mr. Bishop, and Mr. Barrow. Total 19

Pursuant to Unanimous Consent agreement, Mr. Fortuño is recorded as “No” and Mr. Kind, Mr. Grijalva, and Mr. Ryan are recorded as “Aye.”

Roll Call #5, Amendment #6 offered by Mrs. Davis regarding subsequent reduction was defeated:

On Amendment #6 offered by Mrs. Davis, the following members voted “No:”

Mr. Boehner, Mr. McKeon, Mr. Castle, Mr. Johnson, Mr. Souder, Mr. Norwood, Mr. Ehlers, Mrs. Biggert, Mr. Platts, Mr. Tiberi, Mr. Keller, Mr. Osborne, Mr. Wilson, Mr. Porter, Mr. Kline, Mrs. Musgrave, Mr. Inglis, Mr. Marchant, Mr. Price, Mr. Jindal, Mr. Boustany, Mrs. Foxx, Mrs. Drake, and Mr. Kuhl. Total 24

The following members voted “Aye:”

Mr. Petri, Mr. Miller, Mr. Kildee, Mr. Owens, Mr. Payne, Mr. Andrews, Mr. Scott, Ms. Woolsey, Mr. Hinojosa, Mrs. McCarthy, Mr. Tierney, Mr.Kucinich, Mr. Wu, Mr. Holt, Mrs. Davis, Ms. McCollum, Mr. Davis, Mr. Van Hollen, Mr. Bishop, and Mr. Barrow. Total 20

Pursuant to Unanimous Consent agreement, Mr. Fortuño and Mrs. McMorris are recorded as “No” and Mr. Kind, Mr. Grijalva, and Mr. Ryan are recorded as “Aye.”

Roll Call #6, Motion by Mr. Petri for transmittal to the Budget Committee was adopted:

On the motion to transmit to the Budget Committee, the following members voted “Aye:”

Mr. Boehner, Mr. Petri, Mr. McKeon, Mr. Castle, Mr. Johnson, Mr. Souder, Mr. Ehlers, Mrs. Biggert, Mr. Platts, Mr. Tiberi, Mr. Keller, Mr. Wilson, Mr. Porter, Mr. Kline, Mrs. Musgrave, Mr. Inglis, Mr. Marchant, Mr. Price, Mr. Jindal, Mr. Boustany, Mrs. Foxx, and Mr. Kuhl. Total 22

The following members voted "No:"

Mr. Miller, Mr. Kildee, Mr. Owens, Mr. Payne, Mr. Andrews, Mr. Scott, Ms. Woolsey, Mr. Hinojosa, Mrs. McCarthy, Mr. Tierney, Mr. Kucinich, Mr. Wu, Mr. Holt, Mrs. Davis, Ms. McCollum, Mr. Davis, Mr. Van Hollen, Mr. Bishop, and Mr. Barrow. Total 19

Pursuant to Unanimous Consent agreement, Mr. Norwood, Mrs. McMorris, Mr. Fortuño, and Mrs. Drake are recorded as "Aye;" Mr. Kind, Mr. Grijalva, and Mr. Ryan are recorded as "No."

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

In accordance with clause (3)(c) of House Rule XIII, the goal of the Committee Print is to reauthorize and improve programs authorized under the Higher Education Act. The Committee expects the Department of Education to comply with these provisions and implement the changes to the law in accordance with these stated goals.

CONSTITUTIONAL AUTHORITY STATEMENT

Under clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee must include a statement citing the specific powers granted to Congress in the Constitution to enact the law proposed by the Committee Print. The Committee believes that the amendments, made by this bill to the Social Security Act, are within Congress' authority under Article I, section 8, clause 1 of the Constitution.

STATEMENT OF OVERSIGHT FINDINGS AND RECOMMENDATIONS OF THE COMMITTEE

In compliance with clause 3(c)(1) of rule XIII and clause (2)(b)(1) of rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the body of this report.

NEW BUDGET AUTHORITY AND CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

With respect to the requirements of clause 3(c)(2) of rule XIII of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974 and with respect to requirements of 3(c)(3) of rule XIII of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee will receive a cost estimate for the Committee Print for the Director of the Congressional Budget Office, which will be transmitted.

COMMITTEE ESTIMATE

Clauses 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs that would be incurred in carrying out the Committee Print. However, clause 3(d)(3)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, will be transmitted (new matter is printed in italic and existing law in which no change is proposed is shown in roman).

COMMITTEE PRINT
THE PERSONAL RESPONSIBILITY, WORK AND FAMILY PROMOTION ACT OF 2005

COMMITTEE REPORT

PURPOSE

The Committee Print, passed on October 20, 2005 entitled the *Personal Responsibility, Work, and Family Promotion Act of 2005*, amends and improves the mandatory work requirements and other work-related provisions of the Temporary Assistance for Needy Families (TANF) block grant and reauthorizes the Child Care and Development Block Grant through 2010. This legislation enhances the opportunities of needy families to achieve self-sufficiency and access quality child care. In addition, the legislation creates new authority for States and localities to conduct demonstration projects coordinating multiple public assistance and workforce development programs to improve services to needy families and working individuals.

COMMITTEE ACTION

107th CONGRESS

Subcommittee Hearings

On Thursday, September 20, 2001, the Subcommittee on 21st Century Competitiveness held a hearing on *Welfare Reform: an Examination of Effects.* The hearing addressed the general effects of reform to date, with emphasis on efforts to assist families, reduce welfare dependence, and increase job preparation and work. Subcommittee Members heard views from leading experts and practitioners on the successes of the welfare reform law. The testifying witnesses were Dr. Ron Haskins, Senior Fellow, The Brookings Institute, Washington, DC; Mr. Joel Potts, Ohio Department of Job and Family Services, Columbus, Ohio; Dr. Sanford Schram, Professor of Social Work, Bryn Mawr College, Bryn Mawr, Pennsylvania; Mr. Robert Rector, Senior Research Fellow, The Heritage Foundation, Washington, DC; and Dr. Heather Boushey, Economist, Economic Policy Institute, Washington, DC.

On Tuesday, October 16, 2001, the Subcommittee on 21st Century Competitiveness held a second hearing, *Welfare Reform: Success in Moving Toward Work.* The hearing was held to explore the degree to which welfare reform's success has been the result of the reform's emphasis on work. A panel of researchers, business owners who have hired participants and local welfare reform implementers offered perspectives on the effects that the reform law's work requirements have had in moving welfare recipients into employment. The testifying witnesses were Dr. Lynn Karoly, Director of Labor and Population Program & Populations Research Center, RAND Institute, Santa Monica, California; Ms. Lashunda Hall, former Wisconsin Works Participant, Milwaukee, Wisconsin; Ms. Martha Davis, Legal Director of NOW-LDEF, New York, New York; Ms. Mona Garland, Director of Opportunities Industrialization Center of Greater Milwaukee, Wisconsin Works (W-2), Milwaukee, Wisconsin; Mr. Rodney Carroll, President and CEO, The Welfare to Work Partnership, Washington, DC; and Ms. Jennifer

Brooks, Director, Self-Sufficiency Programs and Policy, Wider Opportunities for Women, Washington, DC.

On Wednesday, February 27, 2002, the Subcommittee on 21st Century Competitiveness held a hearing on *Assessing the Child Care and Development Block Grant*. The purpose of this hearing was to provide information on the general operation of the Child Care and Development Block Grant (CCDBG) in preparation for its reauthorization as part of the Committee's welfare package. Subcommittee Members heard from leading experts and practitioners about the importance of child care as a support allowing families to obtain and retain employment and the vital role that the block grant plays in meeting that need. The panel highlighted the importance of quality child care in promoting healthy childhood development and school readiness, and offered recommendations for improving access to child care for eligible families. The testifying witnesses were Ms. Janet K. Schalansky, Secretary, Kansas Department of Social and Rehabilitation Services, on behalf of the American Public Human Services Association, Topeka, Kansas; Ms. Helen C. Riley, Executive Director of St. Michael's School and Nursery, Wilmington, Delaware; Ms. Helen Blank, Director of Child Care and Development, Children's Defense Fund, Washington, DC; Mr. Douglas J. Besharov, Resident Scholar, American Enterprise Institute, Washington, DC; and Ms. Karen Ponder, Executive Director of the North Carolina Partnership for Children and Smart Start, Raleigh, North Carolina.

On Tuesday, March 12, 2002, the Subcommittee on 21st Century Competitiveness held a third hearing, *Welfare to Work: Ties Between TANF and Workforce Development*. The hearing focused upon the extent to which TANF work services are provided through the One-Stop delivery system for workforce development established through the Workforce Investment Act of 1998 (WIA) and how such linkages affect participants. The General Accounting Office testified on the results to date of a study the agency is conducting on this topic. In addition, the Subcommittee members heard from a State and a local area that successfully have integrated TANF work services into the One-Stop delivery system. The testifying witnesses were Dr. Sigurd Nilsen, Director, Health, Education and Human Services Division, General Accounting Office, Washington, DC; John B. O'Reilly, Jr., Executive Director, Southeast Michigan Community Alliance, Taylor, Michigan; and, Greg Gardner, Acting Director, Utah Department of Workforce Services, Salt Lake City, Utah.

Full Committee Hearing

On Tuesday, April 9, 2002, the Committee on Education and the Workforce held a hearing on *Working Toward Independence: the Administration's Plan to Build upon the Successes of Welfare Reform*. The Honorable Tommy Thompson, then-Secretary of the Department of Health and Human Services, testified on the first panel regarding the Administration's proposal to promote work and strengthen families. Jason Turner, Visiting Fellow, The Heritage Foundation, Washington, D.C. and Wendell Primus, Center on Budget and Policy Priorities, Washington, D.C. testified on the second panel.

Legislative Action

On Tuesday, April 9, 2002, Representative Howard "Buck" McKeon (R-CA), along with Representatives Boehner (R-OH), Petri (R-WI), Hoekstra (R-MI), Greenwood (R-PA), Upton (R-MI), Tancredo (R-CO), DeMint (R-SC), Isakson (R-GA), Keller (R-FL), and Culberson (R-TX), introduced H.R. 4092, the *Working Toward Independence Act of 2002*, a bill to reauthorize the Temporary Assistance for Needy Families Block Grant (TANF) and the Child Care and Development Block Grant (CCDBG) through 2007.

On Thursday, April 18, 2002, the Subcommittee on 21st Century Competitiveness considered H.R. 4092 in legislative session and reported it favorably, as amended, to the Committee on Education and the Workforce. The roll call vote was 9-7. The Subcommittee adopted two amendments, including a substitute amendment offered by Representative McKeon.

On Wednesday, May 1, 2002 and Thursday, May 2, 2002 the Committee on Education and the Workforce considered H.R. 4092 in legislative session and reported it favorably, as amended, to the House of Representatives. The roll call vote was 25-20. The Committee adopted six amendments, including an amendment in the nature of a substitute offered by Chairman Boehner.

On May 15, 2002, Congresswoman Deborah Pryce (R-OH), along with Chairman John Boehner (R-OH) and Subcommittee Chairman Howard P. "Buck" McKeon (R-CA), introduced H.R. 4737, the *Personal Responsibility, Work, and Family Promotion Act of 2002*. The bill incorporated H.R. 4092, as reported by the Committee on Education and the Workforce, and H.R. 4090, as reported by the Committee on Ways and Means.

On May 16, 2002, the House of Representatives passed H.R. 4737 by a vote of 229 – 197.

108th CONGRESS

Legislative Action

On February 4, 2003, Congresswoman Deborah Pryce (R-OH), along with Chairman John Boehner (R-OH) and Subcommittee Chairman Howard P. "Buck" McKeon (R-CA), introduced H.R. 4, the *Personal Responsibility, Work, and Family Promotion Act of 2003*. The bill was substantially the same as H.R. 4737, which passed the House in the 107th Congress.

On February 13, 2003, the House of Representatives passed H.R. 4 by a vote of 230 – 192. Neither the Committee on Education and the Workforce nor the Committee on Ways and Means considered H.R. 4 in legislative session.

109th CONGRESS

Subcommittee Hearing

On Tuesday, March 15, 2005, the Committee on Education and the Workforce, Subcommittee on 21st Century Competitiveness, held a hearing in Washington, D.C. on "Welfare Reform: Reauthorization of Work and Child Care." The purpose of the hearing was to review the Administration's proposal for reauthorization of welfare and child care and to examine successes and challenges in implementing the programs. The Honorable Wade Horn, Ph.D., Assistant Secretary for Children and Families, U.S. Department of Health and Human Services, Washington, D.C. testified on the first panel. Curtis Austin, President, Workforce Florida, Tallahassee, Florida; Larry Mead, Ph.D., Professor of Politics, New York University, New York, New York; Casandra Fallin, Executive Director, Baltimore City Child Care Resource Center, Baltimore, Maryland; and Mark Greenberg, Director of Policy, Center for Law and Social Policy, Washington, D.C. testified on the second panel.

Legislative Action

On January 4, 2005, Congresswoman Deborah Pryce (R-OH), along with Chairman John Boehner (R-OH), Subcommittee Chairman Howard P. "Buck" McKeon (R-CA), Congressman Joe Wilson (R-SC), and Congressman John Kline (R-MN), introduced H.R. 240, the *Personal Responsibility, Work, and Family Promotion Act of 2005*. The bill is substantially similar to H.R. 4, which the House passed in the 108th Congress.

On Wednesday, October 19, 2005, and Thursday, October 20, 2005, the Committee on Education and the Workforce considered in legislative session a Committee Print containing the elements of H.R. 240 that are in the jurisdiction of the Committee on Education and the Workforce and ordered it favorably, as amended, to the Committee on the Budget by a vote of 23-20. The Committee considered 19 amendments and adopted the following four amendments:

1. The Committee adopted, by voice vote, an Amendment in the Nature of a Substitute offered by Chairman Boehner (R-OH). The amendment adds language from H.R. 3975, the Hurricane Regulatory Relief Act, to ease federal requirements for state administration of the CCDBG to give families affected by Hurricanes Katrina and Rita easier access to child care services. In addition, the amendment changes the effective date and makes technical changes.
2. The Committee adopted, by voice vote, an en bloc amendment offered by Congressman Luis Fortuño (R-PR). The amendment requires State CCDBG plans to specify how the State will coordinate child care services with services available for infants, toddlers, and pre-school children through the Individuals with Disabilities Education Act (IDEA) and to require states to demonstrate in their CCDBG state plans how they are addressing the needs of limited English proficient families.
3. The Committee adopted, by voice vote, an amendment offered by Congressman Rob Andrews (D-NJ). The amendment adds a new prohibition regarding the use of TANF grants for offshoring.
4. The Committee adopted, by voice vote, an amendment offered by Congressman Danny Davis (D-IL). The amendment creates economic incentive demonstration projects as part of the fatherhood program of the Print.

SUMMARY

The Committee Print makes substantial changes to the work requirements of the Temporary Assistance for Needy Families (TANF) block grant, increases the emphasis within the block grant on moving participants into employment, provides new flexibility to States, and encourages States to improve the quality of child care available to low-income families. The changes are consistent with the recommendations of President Bush and the Department of Health and Human Services (HHS).

Title I— TANF Program

Universal engagement

The legislation creates a policy of universal engagement so that all families must be in work or other activities leading to self-sufficiency. Each family will have a self-sufficiency plan, and each family's participation in activities will be monitored. States will be penalized for failure to establish self-sufficiency plans for families.

Work Requirements

Work participation requirements will be increased from the current requirement of 50 percent to 70 percent by 2010. The current, higher participation requirement for two-parent families will be eliminated so as not to discriminate against marriage.

A modified caseload reduction credit continues so that States' work participation requirements are reduced as their caseloads decline, which encourages and rewards States for diverting individuals from enrolling in cash assistance and for moving families off the rolls into work. The current credit rewards states for reductions below their 1995 caseload levels. The updated credit phases-in a four-year look-back, so that by 2009 states get credit for reducing their caseload below 2005 levels.

All families will be required to be involved in activities averaging 40 hours per week in order to be counted toward the required participation rate, so that families are engaged in a full work week of activities. Currently, single and two-parent families must be engaged in work-related activities for 30 and 35 hours a week, respectively.

The Committee Print increases the number of hours that must be spent in actual work, including unsubsidized employment, subsidized private or pubic sector employment, on-the-job training, supervised work experience, and supervised community service, from 20 hours per week to 24 hours per week. States will obtain pro-rata credit for families engaged in activities less than full time as long as they meet the 24-hour direct work requirement.

States' work participation rates will be based on the total number of countable hours worked per month, rather than the number of families meeting the participation standard. Therefore, 160 hours of work per month will count as one family fulfilling the full 40-hour work requirement. This allows for easier calculation of the pro-rata credit for States.

States will define approved activities that will count toward the remaining 16 hours of the work requirement, as long as such activities help achieve a purpose of TANF. Such activities could include education and training, activities that promote child well-being, or activities that promote healthy marriages. The Print eliminates the current restrictions on the percent of the caseload that can participate in vocational education; however, individuals will be required to work part-time (averaging 24 hours per week) while obtaining education.

In addition, the Print allows three months within any 24 consecutive months in full-time substance abuse treatment, rehabilitative services, work-related education or training, and job search to count toward the work requirement. States may permit individuals to participate in four months of full-time education or training in order to complete a certificate program or obtain education necessary to fill a local job need.

The Committee Print maintains current law that gives states flexibility in determining sanctioning policies, except that States must continue assistance for single parents who have a child under age six but who cannot obtain child care. In addition, the Print requires recipients to engage in work activities at least once during a two-month consecutive period to remain eligible for TANF assistance, unless good cause is shown.

Teen parents will either attend school or participate in the full 40 hours of work and other activities, similar to current law. States may continue to exempt parents with a child under age one from the work requirements, but States still must engage such families in constructive activities.

State Plan Requirements

States will describe in their State plan how they will increase work and reduce dependence. In addition, each State will establish specific work-related performance objectives and measures. States will have complete flexibility to define their measurement methodology, as long as they describe it in their State plans.

States will describe in their State plan particular strategies and programs they may be employing to address important TANF challenges. Such challenges are employment retention and advancement, including placement into high demand jobs; services for clients with special needs; and program integration with the Workforce Investment Act of 1998 (WIA).

Report on Integration

The Committee Print requires the Secretary of Health and Human Services and the Secretary of Labor to submit jointly a report to Congress, within six months of enactment, describing changes needed to the definitions, reporting requirements, and performance measures in WIA and TANF to allow greater integration between welfare and workforce development.

Title II— Amendments to the Child Care and Development Block Grant of 1990

Overview

The Committee Print reauthorizes the Child Care and Development Block Grant (CCDBG) through 2010 and creates a short title, the *Caring for Children Act of 2005*. The

Committee Print increases the amount of discretionary funding authorized to $2.3 billion for fiscal year 2006, $2.5 billion for fiscal year 2007, $2.7 billion for fiscal year 2008, $2.9 billion for fiscal year 2009, and $3.1 billion for fiscal year 2010. The current authorization is $1 billion, but the fiscal year 2005 appropriation is $2.1 billion.

Program Goals

The Committee Print amends the existing goals to emphasize that the block grant is intended to serve both low-income working families who receive cash assistance and also those who do not. This legislation also creates two new goals to encourage States to improve the quality of child care and to promote cognitive development and school readiness.

State Plan Requirements

The Committee Print modifies the State plan in several ways. The legislation asks States to collect and disseminate information to both parents of eligible children and child care providers about: the quality and availability of child care services; resources to assist families in obtaining child care; research and best practices on children's development; and, other programs and services for which families may be eligible, including the food stamp, WIC, Medicaid and SCHIP programs.

This legislation requires States to describe partnerships created with public and private entities to increase the supply and quality of child care services, and to demonstrate efforts to coordinate child care services provided by this Act with other child care and early childhood education programs, including Head Start, Early Reading First, Even Start, and state-sponsored pre-kindergarten.

Beginning in 2007, State plans will be required to contain an outline of the State's strategy to address the quality of child care available to children in that State. States will report on the use of quantifiable, objective measures for evaluating the quality of child care services and progress in improving child care quality.

Finally, States are asked to address factors that can make finding care difficult for some parents. States would report in their State plan how the State is working to meet the child care needs of parents eligible for assistance who have children with special needs, work non-traditional hours, or require infant and toddler care.

Quality Set-Aside

The Committee Print increases from four to six percent the amount of the total block grant that a State must spend on activities to improve the quality of child care provided to eligible families in that State, and establishes permissible uses for those funds. The quality set-aside may be used to support: programs that provide training, education, and other professional development activities to enhance the skills of the child care workforce, including informal caregivers; activities to enhance early learning and foster school readiness; initiatives to increase the retention and compensation of child care providers; and, other activities deemed by the States to improve the quality of child care services provided in the State.

Federal Eligibility Guidelines

The Committee Print eliminates the Federal income limit for eligibility, previously set at 85 percent of the State median income. States must continue to prioritize families based on need and serve both TANF and non-TANF families. Beginning in 2007 and biennially thereafter, the Secretary would provide to Congress aggregated statistics on the supply, demand, and quality of child care, early education, and non-school programs available within States.

Hurricane Response

In response to Hurricanes Katrina and Rita, the Committee Print authorizes the Secretary to waive or modify certain federal CCDBG requirements through June 30, 2006. The waivers may be used to temporarily suspend income limitations on eligibility to receive services; work requirements applicable to eligibility to receive services; the application of the quality set-aside in states affected by the Gulf hurricanes; and any barrier to providing priority services to displaced children provided that enrolled children residing in such state do not lose eligibility as a result.

Title III— Broadened Waiver Authority

The Committee Print provides new authority for States to apply to conduct demonstration projects coordinating two or more public assistance, workforce development, and other programs to support working individuals and families, help families escape welfare dependency, promote child well-being, or help build stronger families.

The administering entity must seek the waiver. If the programs are administered by two different entities, such as one State entity and one local entity, each must join in the application to conduct the demonstration project. States and localities will be able to seek waivers for activities funded under the Wagner-Peyser Act (employment services), Title I of the Workforce Investment Act (except Job Corps), activities funded under the Adult Education and Family Literacy Act, the Job Opportunities for Low-Income Individuals grant program, and activities funded under the Child Care and Development Block Grant.

Each Federal Secretary who administers a program that is to be included in a demonstration project must approve the request. Secretaries cannot waive certain provisions, including civil rights, purposes or goals of any program, maintenance of effort requirements, health or safety provisions, labor standards under the Fair Labor Standards Act, or environmental protections. In addition, a Secretary may not waive any requirement that a State pass through to a sub-State entity all or part of the funds it receives. In addition, the Secretaries may not waive certain provisions of the Workforce Investment Act.

The demonstration projects will be limited to five years, and the State or local entities conducting the demonstration project must evaluate the results. Waivers must be cost neutral to the federal government. In addition, Federal Secretaries will report to Congress on the success of any demonstration projects awarded.

Title IV – Effective Date

The Committee Print makes changes effective on the date of enactment, unless the Secretary of Health and Human Services determines that State legislation is needed to change a State plan under Part A of the Social Security Act. In such a case, the effective dates shall be after the close of the first regular session of the State legislature that begins after enactment.

COMMITTEE VIEWS

The Committee Print reauthorizes and enhances the work-related provisions of the Temporary Assistance for Needy Families (TANF) block grant through 2010. Enacted in 1996, TANF revolutionized how States assist needy families by requiring, for the first time, that welfare participants work for benefits. The welfare reform law made the crucial difference in maximizing opportunities for welfare recipients to participate in the workforce.

Welfare reform has delivered unprecedented results and has brought a whole new culture to the federal aid program. Welfare caseloads reached their all-time high in March 1994 at 5.1 million families. Since then, caseloads have declined approximately 60 percent to 1.9 million families in June 2004. This represents a 55 percent decline since the enactment of TANF. The total number of families receiving assistance is now lower than at any time since 1970.

Employment among never-married mothers, who comprise the population most likely to go on welfare, rose by 28 percent between 1996 and 2003, from 49.3 percent to 63.2 percent. The percentage of working welfare recipients has more than doubled from 11.3 percent in 1996 to 25.3 percent in 2002.

In addition, according to U.S. Census figures, 1.6 million children have been lifted from poverty. Child poverty rates declined from 20.5 percent in 1996 to 17.9 percent in 2004. Decreases in poverty have been significant among African-American children, declining from 39.9 percent to 33.6 percent. According to HHS, this rate is lower than at any time before welfare reform was enacted, when child poverty rates for African American children were 40 percent or higher. The poverty rate among Hispanic children declined from 40.3 percent to 28.6 percent.

Many have argued that the economy should be credited with the caseload reduction and increase in work. However, that claim easily is disputed by examining welfare caseloads in previous times of economic growth. Not only did previous periods of economic growth not result in lower caseloads, but during two previous economic expansions (in the late 1960s and the 1980s) caseloads actually increased. And, during the recent recession of 2001, caseloads held steady and in some areas continued to decline.

The Committee believes that the challenge for Congress this year is to build on the unprecedented success of the 1996 welfare reform law – by putting even more Americans on the path to self-reliance.

The Committee has modeled the Print after President George W. Bush's welfare reauthorization and improvement plan, *Working Toward Independence*, unveiled February 26, 2002. In addition, the Print incorporates into the reauthorization of the CCDBG key elements of President Bush's *Good Start, Grow Smart* plan to improve early childhood education.

Title I— TANF Program

Given the great success of the 1996 welfare reform law, the Committee believes that the basic structure of TANF should remain intact, but the work rules should be strengthened to increase opportunities for families to move to self-sufficiency and make the program more responsive to disadvantaged families.

Universal Engagement and Family Self-sufficiency Plans

While TANF reforms significantly reduced welfare caseloads, we still have work to do. According to the Department of Health and Human Services' Temporary Assistance for Needy Families Program Sixth Annual Report to Congress (November 2004), 58 percent of TANF adult recipients are not participating in work activities as defined by federal law. Given the five year lifetime limit on assistance that exists in the broader TANF law, the Committee believes that it would be a disservice to families not to engage them immediately in activities that could assist them in achieving independence. Therefore, the Print creates a policy of universal engagement to ensure that all families are participating in work and other activities that will lead to self-sufficiency.

Under current law, State plans must require that a parent or caretaker engage in work (as defined by the State) after, at most, 24 months of assistance. However, this requirement is not enforced by a specific penalty. Currently, twelve States or territories do not require TANF recipients to engage in work during their first 24 months of receiving benefits.

States no longer will be permitted to wait 24 months before requiring individuals to engage in work. The Committee Print would repeal this allowance and replace it with a provision requiring parents in families receiving assistance to participate in work or other activities that lead to self-sufficiency. While States currently have the option to develop individual responsibility plans, the Print requires States to create a self-sufficiency plan for each family. The Committee Print requires the State to assess, in the manner deemed appropriate by the State, each work-eligible individual before preparing the plan.

The self-sufficiency plan must be established in consultation, as the State deems appropriate, with the work-eligible individual and specify appropriate direct work activities to assist the family in achieving their maximum degree of self-sufficiency. The State will monitor the participation of individuals in the activities specified in the plan, review the progress of the family toward self-sufficiency, and revise the plan as the State deems appropriate. The State will have sole discretion, consistent with the work requirements of the law, to design activities, monitor progress, and make modifications to the plans. Nothing in the plan shall preclude a State from requiring participation in work and other activities the State deems appropriate for helping families achieve self-sufficiency and improving child well-being. In addition, States may use job search or other appropriate job readiness or work activities to assess the employability of individuals and to determine future engagement activities. The Committee intends that States will have sole discretion to implement the self-sufficiency plans, as long as they are consistent with this section and the work requirements.

Plans must be developed within 60 days of opening a new TANF case, or within twelve months for families enrolled at the time of enactment. States face a penalty for failure to establish self-sufficiency plans as part of the current penalty for failure to satisfy state work participation rates.

<u>Work Requirements</u>

The Committee wants to ensure that all families are on the path to their greatest level of independence. TANF includes annual minimum work participation rate standards for families receiving assistance. Currently, 50 percent of all families receiving benefits are required to participate in federally-recognized work activities for a minimum number of hours per week, and 90 percent of two-parent families are expected to engage in federally-recognized activities. However, the national aggregate participation rate for FY 2000 was only 34 percent, according to HHS. Since then, participation in work activities has dropped. Only 31 percent of all families participated in the required hours of TANF work activities in FY 2003. In addition, States are required to have a much higher percentage of two-parent families participating in work – 90 percent. Yet, for FY 2002, the national aggregate participation rate was only 49.9 percent for two-parent families.

Certain families are exempt from required hours of working, including, at a State's option, families with a child under age one. The majority of exempt participants are child-only cases, in which no adult is counted toward the family assistance group.

The Committee prioritizes increasing rates of work participation, since obtaining work experience has been shown to be the most critical factor in helping families break the cycle of dependency. Dr. Larry Mead summarized why work participation is critical when he testified before the Subcommittee on 21st Century Competitiveness on March 15, 2005 when he stated, "The ideal in welfare reform is to link benefits as tightly as possible to work. That requires a clear work test that employable recipients must meet as soon as they apply for aid, not sometime later." Therefore, the Committee raises the rate of work participation. In FY 2006 the standard is 50 percent, and it rises by five percentage points annually so that 70 percent of a State's caseload must be meeting the federal work standard in FY 2010.

As noted, current law has higher participation rates for two-parent families. The Committee eliminates all separate, higher requirements for two-parent families so as not to discriminate against or discourage marriage. States will only need to meet one work standard.

The Committee recognizes that some families may not be able to meet the expected work standard. As noted, with this Print States will be required to have 70 percent of their caseload working by 2010. As a result, 30 percent of the caseloads will not have to be meeting the federal work participation standard (although States still must engage such families in activities leading toward self-sufficiency as specified in their self-sufficiency plans). People who care for disabled children or have other significant barriers to work are some of the populations the Committee expects States to classify into this 30 percent category. Therefore, the Committee does not carve-out from the work requirement any groups of individuals that may have barriers to work.

Current law reduces work standards by a caseload reduction credit. For each percent decline in a State's caseload from the fiscal year 1995 level, which is not attributable to policy changes, the State's work participation standard is reduced by one percentage point. This credit was given to encourage States to move families off assistance and into work and to give States credit for diverting cases from the rolls. States have an incentive not to enroll families that may need only one-time or short-term assistance to get back on their feet. However, policymakers did not anticipate in 1996 the success that States would have in reducing their caseloads. As a result of this success, the existing caseload reduction credit reduced States' annual work rates substantially. The average effective minimum work participation requirement in FY 2002 was only 4.5 percent for all families and 20.6 percent for two-parent families. In FY 2002, 21 States had sufficient caseload reduction credits to reduce their effective all-parent required rate to zero. Only twelve States faced an effective minimum standard greater than ten percent.

While reductions in caseloads were one of the intended effects of the law, the current caseload reduction leaves little incentive for States to continue to move individuals into work and off the welfare rolls. Therefore, the Committee has updated the credit to reward States for further reductions, which will reduce the effective state work participation rate target for States with falling caseloads while requiring more of the remaining caseload to participate in work. For FY 2006, the credit is based on the percent decline in the caseload from FY 1996; for FY 2007, the base year is 1998; for FY 2008, the base is FY 2001. Thereafter, the base year is the 4th preceding fiscal year. For example, the credit in FY 2010 is based on the caseload decline from FY 2006. So, if a State's welfare caseload declines by 20 percent between fiscal years 2006 and 2009, its effective work participation requirement for the remaining caseload in FY 2010 would be 50 percent, given the updated credit for net caseload reduction.

Members have stressed the importance of emphasizing the need not simply to cut people off the welfare rolls but to move TANF participants into work. Such case closures will be rewarded in this credit as long as they contribute to an overall net caseload reduction.

The Committee Print includes a new "superachiever" credit for States that have reduced their caseloads by more than 60 percent since 1995. The value of the credit would be equal to the number of percentage points above 60 percent in caseload reduction that occurred between 1995 and 2001. The superachiever credit may reduce a State's work participation rate only to 50 percent, although any future caseload reduction also may be applied to the work participation rate the State must achieve, after calculating the superachiever credit, in order to encourage further caseload reduction.

Seventeen States achieved caseload declines of more than 60 percent between fiscal years 1995 and 2001. These States would receive percentage reductions in future work requirements as follows: Colorado is eligible for a maximum 12 percent credit against future rates; Florida, 15 percent; Georgia, 4 percent; Idaho, 20 percent; Illinois, 14 percent; Louisiana, 9 percent; Maryland, 5 percent; Michigan, 4 percent; Mississippi, 10 percent; New Jersey, 2 percent; North Carolina, 6 percent; Ohio, 3 percent; Oklahoma, 9 percent; South Carolina, 5 percent; West Virginia, 2 percent; Wisconsin, 16 percent; and Wyoming, 20 percent. The credit recognizes the challenge that these States might have in further reducing caseloads, which would otherwise reduce the rising work requirements.

Under current law, adults generally are required to participate in 30 hours of work activities, of which 20 hours must be in priority work activities per week. For two-parent families the standard is 35 hours per week, with 30 hours in priority work activities. For a single parent of a child under age six, 20 hours of work participation satisfies the requirement. States may exempt the parent of a child under age one from work and exclude them from the calculation of work participation rates.

Current priority work activities include unsubsidized jobs, subsidized private sector employment, subsidized public sector employment, work experience, on-the-job training, job search for up to six weeks, community service, vocational education for up to twelve months, and providing child care for other TANF recipients. Three other activities can count under certain circumstances: job skills training directly related to employment, and, for high school dropouts or students, education directly related to work and completion of secondary school. Participation in education, including vocational education and students finishing high school, may account for no more than 30 percent of persons credited with work for purposes of satisfying the state work participation rate. Teen parents are deemed to meet the weekly hour participation standard by maintaining satisfactory attendance in secondary school.

The Committee Print revises the work requirement for participants. Under the 1996 reform, as stated, families were required to work only 30 hours a week in order to receive TANF benefits. In today's American workforce, employers almost always require at least 40 hours of work per week. In order to help individuals become prepared for the standard workweek, the Print increases the average weekly work requirement to 40 hours for work-eligible individuals. Work-eligible individuals are individuals who are married or are single heads of household and whose needs are included when determining the amount of assistance to be provided to the family.

In order for a work-eligible individual's hours of work to be able to count toward the participation rate calculation, the individual must participate in at least an average of 24 hours of direct work activities per week in a month. Direct work activities include unsubsidized employment, subsidized private sector employment, subsidized public sector employment, on-the-job training, supervised work experience, or supervised community experience. As noted above, participants now generally are required to work 20 hours in these direct work activities, so this is an increase of four hours of direct work per week.

As under current law, teen parents still will be able to comply with the work requirement by attending school.

The remaining 16 hours of the 40-hour workweek of activities can be in any constructive activity a State determines to be appropriate for the family. The Committee expects such activities to be consistent with the purposes of TANF. Such activities could include education and training, structured activities with a family's children that will promote child well-being, parenting education classes, basic adult education, classes to learn English as a second language, substance abuse treatment, and more.

The Head Start program provides comprehensive early childhood development, educational and other services to low-income preschool children and their families. The Committee recognizes that many TANF participants have children enrolled in the Head Start program. Head Start strongly emphasizes the involvement of families in the program to ensure that programs are responsive to the unique needs of the community and to help improve conditions necessary to prepare children to succeed in school. As part of the program, parents are strongly encouraged to participate in Head Start Centers as volunteers. Such interaction is beneficial for both the parent and the participants. The Committee encourages States to tailor their TANF work programs so that parents can participate in their children's Head Start experience while also engaging in activities that will lead to family self-sufficiency. The Committee believes that parents volunteering in Head Start Centers qualifies as supervised community service and therefore may count toward the 24 hours of direct work activities. In addition, a State may count participation in Head Start toward the 16 hours of other constructive activities, as such participation would be a structured activity that promotes child well-being.

In addition, the Committee believes that parents must be actively involved in their children's education to help their children succeed. Therefore, the Committee Print requires work-eligible individuals to visit the schools of their children at least twice per year, as long as the family continues to receive TANF assistance. States will be required to verify such visits through documentation of their choice. The Committee envisions that such visits should include parent-teacher conferences. If a school does not have such conferences twice a school year, other examples of parental involvement in schools could include volunteering in a child's classroom or on a class field trip. Such activities could count toward the required 16 hours of weekly constructive activities, as they promote child well-being. Not only will this provision allow parents to track their children's academic and social progress, but it also will give parents an opportunity to meet their children's teachers – and vice-versa. At a time when Congress and President Bush are placing such a premium on parental involvement in their children's education, this provision will help ensure that low-income children are not left behind in this respect.

The Committee has changed the methodology for calculating the work rates. Currently, to calculate monthly participation rates, the number of families receiving assistance who are meeting the work standard is divided by the number of countable families receiving assistance. Under the Print, the calculation of the monthly participation rates changes to the total number of hours worked during the month by work-eligible individuals in allowable activities divided by 160 times the number of families receiving assistance. In both circumstances, child-only cases are excluded. States also continue to have the option, on a case-by-case basis, to exclude work-eligible individuals who have children under one year old and certain sanctioned families. States also have the option to exclude from the work requirements families during their first month of assistance.

Basing the calculation on 160 hours of countable work activities assumes that the work-eligible individual will participate in an average of 40 hours of activities for four weeks per month. However, since most months are longer than four weeks, the calculation actually equates to an average of 37 hours per week. Therefore, the calculation includes some flexibility for States to ensure the families' work weeks match those of individuals not receiving assistance. This flexibility allows states to accommodate an individual that works in unsubsidized employment and whose business closes for national holidays or other occasions. The Committee does not expect States to find alternative placements for individuals if their place of work is closed for a day.

The new methodology for calculation of the work participation rates increases States' flexibility in how they can meet the participation rate. Under current law, in order to be counted toward the work rate, families must be participating at least 30 hours in federally countable activities. Now, States will receive credit for hours work-eligible individuals spend in work activities, as long as at least a minimum of 24 hours are spent in direct work activities.

For example, without considering the impact of the caseload reduction credit, a State could reach a 60 percent participation rate in a multitude of ways. Assuming a hypothetical caseload of 100 families, a State could reach a 60 percent participation rate if 60 families have a parent who works 40 hours per week, including 24 hours of direct work activities. Or, 80 families could have a work-eligible parent who works 30 hours per week, including 24 hours of direct work. A variety of combinations could be developed, as long as the work-eligible individuals participate in at least 24 hours of direct work. A State may count more than 40 hours worked by one family, as long as the additional hours are done by work-eligible individuals in direct work activities. For instance, both parents may be working in a married family. Unlike the flexibility in the new formula for calculation of work rates, under current law there is only one way to achieve a hypothetical 60 percent participation rate in a 100 family caseload (without counting the caseload reduction credit), which is for 60 families to have a parent who works at least 30 hours per week in allowable activities.

The appropriateness of emphasizing work first in the revised TANF program is supported by research of what has worked since TANF was enacted. Evaluations of welfare programs on work show that direct work activities are more successful and cost-effective in improving participants' financial well-being and child well-being. Dr. Lynn Karoly, of RAND, synthesized national literature on the effect of work requirements on welfare recipients. During testimony before the 21st Century Competitiveness Subcommittee on October 16, 2001, Dr. Karoly informed the Subcommittee that:

> "The LFA (labor force attachment) programs, which emphasize job search, result in larger average employment gains than the HCD (human capital development) programs, which emphasize skill-building and generally require the participant to

> participate in classroom activities. The average employment increase among the search-oriented programs was 9.2 percentage points, compared to 3 percentage points among the skills-oriented programs. . .Among the four work-first programs (included in the synthesis), earnings impacts averaged about $1,200. Among the human-capital programs, earnings impacts were smaller, averaging just under $400…(T)here is evidence that the jobs-first model generated somewhat greater reductions in welfare use than the skills-oriented programs."

However, the Committee believes that to become truly independent of government assistance, families must have the opportunity to obtain education or training that will help them obtain higher paying jobs that are in demand in the local economy. The Committee believes that the Print offers more flexibility for individuals to obtain education than the current law does. Under current law, participants may spend no more than twelve months in vocational education. In addition, no more than 30 percent of a State's caseload may be either teens attending high school or participants in vocational education. Other educational opportunities are strictly limited and can account for no more than ten hours per week. Under the Print, all work-eligible individuals may spend up to 16 hours per week in any kind of education deemed appropriate by the State for up to five years of TANF eligibility, as long as the participant also works part time for an average of 24 hours per week.

The Committee strongly supports blended activities that combine work and education and training. For instance, it is the Committee's intent that vocational education and training programs could combine classroom training with direct work. An individual could spend as many as 16 hours per week in a classroom learning a trade, and could apply newly acquired skills in an actual workplace setting for an average of 24 hours per week. For instance, a nursing student may spend part of her week in a classroom, but also spend part of the week working in a hospital or nursing home to further her skills. These real work experiences should count as direct work.

Curtis Austin, President of Workforce Florida, outlined during his testimony before the Subcommittee on 21st Century Competitiveness on March 15, 2005 one such strategy operating successfully in his State called the Career Advancement and Retention Challenge (CARC). In the program, TANF recipients work and receive training. The Committee Print provides the flexibility for States to provide these activities for up to five years, as long as participants work at least 24 hours. According to Mr. Austin:

> "The CARC project is a program designed to train those who have obtained employment, but are not yet self-sufficient. . . One of the keys to this approach is that it allows training for all qualified employees at a given worksite, rather than waiting for such workers to contact the one-stop individually. Such innovative approaches may include, but are not limited to creative, non-traditional training programs, support services and mentoring services. The Regional workforce board staff work with the employer and the employees to plan a training program that considers the employees' regular work schedules, the needs of the employer, opportunities for earnings gains and advancement upon

completion of the program and what leveraged dollars or in-kind contributions will be made by the employer or training provider."

The Committee recognizes that short-term, intensive services may be necessary to help some participants become work-ready. As a result, the Print allows substance abuse counseling or treatment, rehabilitation treatment and services, work-related education or training directed effectively at enabling the family member to work, or job search or job readiness assistance to count as direct work activities, as long as the participant engages in the activity at least 24 hours per week, for three months in any 24 consecutive months.

E. Mona Garland, Wisconsin Works Director with the Opportunities Industrialization Center of Greater Milwaukee, who testified before the 21st Century Competitiveness Subcommittee in October 2001, showed the value of short-term training when she said, "We have assigned staff to develop short-term customized training opportunities driven by employment opportunities with higher earning potential in areas such as office skills, medical careers, light industrial, the food service industry and non traditional employment opportunities."

In addition, under certain circumstances, full-time education longer than three months may be necessary. Therefore, the Print allows States, on a case-by-case basis, to allow full time education or training for four months in any 24 consecutive months if four months are needed to permit an individual to complete a certificate program or other education that will allow the person to fill a known job need in a local area. For purposes of obtaining financial aid, the Higher Education Act of 1965 generally defines an academic term as 15 weeks. Therefore, four months will allow individuals to complete a semester of coursework.

The Committee believes the Print also allows sufficient time for job search. In addition to allowing job search for three months in any 24 consecutive months, a State may choose to exclude a work-eligible individual from the work participation rate calculation for the first month the family is on the roll. Therefore, the work-eligible individual has another month during which she can search for a job, before being subject to other work activities.

The Committee Print maintains current law that allows a State discretion to determine the level of sanction a family will face for failure to participate in program requirements. As under current law, a state may not sanction a family with a child under age six but who cannot obtain child care. However, a State must terminate a family's assistance for at least one month or until the family is compliant with all requirements, whichever is longer, if the work-eligible individual's failure to engage in work is total and persists for at least two consecutive months. The Committee intends total failure to mean that the individual has not participated in direct work or other activities as determined appropriate by the State for even one hour during the two month period. States still are able to determine good cause exemptions for failure to comply. Currently, 15 States never reach a full-family sanction. States with a constitutional or statutory requirement to continue benefits will have a one-year transition in which to comply with this provision.

Although the evidence is not clear, studies suggest that a stricter sanction policy is effective in obtaining compliance with program requirements. A study by Robert Rector at the

Heritage Foundation found that States with strong work requirements and full-family sanctions have experienced larger welfare caseload reductions than other States. One example is Wisconsin, which has seen its caseload decline 76 percent since enactment of welfare reform.

Work-related Performance Improvement

The Committee Print adds provisions to TANF to increase accountability and emphasize program outcomes.

Currently, each State must have a 27-month State plan that describes how the State will conduct a program providing cash assistance to needy families with children, provide parents with work and support services, and comply with other requirements of the law. The Committee Print adds State plan requirements that reflect the legislation's increased focus on engaging more recipients in work and other activities that will lead to self-sufficiency. In addition, the changes reflect Members' interest in helping parents move from a first job to a better job.

The Committee Print requires each State to submit, as part of their required State plans, a description of how the State will pursue ending dependence of needy parents on government benefits by promoting job preparation and work, including specific numerical and measurable performance objectives, and describe the methodology the State will use to measure its performance. Then, beginning in 2007, each State shall submit to the Secretary of HHS a report on achievement of and improvement during the preceding fiscal year regarding the performance measures set forth by the State. The Committee intends for States to have full flexibility to define their performance goals; they simply must describe the goals and the State's ability to obtain them.

In addition, the State shall describe, in its plan, any strategies and programs the State may be undertaking to address employment retention and advancement, including placement into high-demand jobs and whether the jobs are identified using labor market information. The Committee encourages States to help recipients obtain employment that can lead to a career. Using labor market information is one way to identify such available jobs. Operated by and available through the nation's One-Stop Career Center system created under the Workforce Investment Act of 1998 (WIA), labor market information assesses the local or regional economy, identifies labor shortages, and contains information on the type of preparation needed to obtain these jobs. Many labor market information resources are available through the internet, as well, as part of America's Labor Market Information System (ALMIS) operated by the U.S. Department of Labor. States are encouraged to avail these resources when preparing recipients for employment.

The Committee Print also requires States to describe any strategies and programs they may be undertaking to address services for struggling and noncompliant families, and for clients with special problems. The Committee wants to ensure that States consider the potentially unique needs and special circumstances of individual families.

States also are asked to describe program integration, including the extent to which TANF employment and training services are provided through the One-Stop delivery system and the extent to which former recipients of such assistance have access to additional core, intensive, or training services funded through WIA. The Committee urges States to integrate TANF work elements with the One-Stop Career Center system created under WIA.

Under current law, the Secretary is to rank States in order of success in moving recipients into long-term private jobs. The legislation deletes the "long-term" qualifier measure used in ranking State performance and adds an employment retention and advancement ranking factor. This change makes clear that Congress intends States to move recipients into jobs that offer opportunities for advancement rather than simply long-term employment in low-wage jobs.

Mandatory Partners with One-Stop Employment Training Centers

The Committee Print also requires TANF to be a mandatory partner in the One-Stop delivery system for workforce development created in WIA. However, a Governor may opt-out of this requirement if the Governor notifies the Secretaries of Health and Human Services and Labor in writing of a determination by the Governor not to include the program as a required partner in WIA. The Committee strongly encourages States to include TANF in the One-Stop delivery system.

Under this Committee's leadership, Congress passed WIA to integrate the nation's job training system that formerly was fragmented, contained overlapping programs, and did not serve either job seekers or employers well. The system operates through One-Stop centers, at which numerous programs must make their services available. These programs include vocational education, veterans' employment and training, employment services, vocational rehabilitation and adult education, just to name a few. In addition, direct WIA services also are provided to dislocated workers, adults seeking better employment, and youth.

Currently, employment and training programs funded through the TANF block grant are optional partners in the One-Stop centers. In many States, the TANF system and the workforce development systems are overseen by different entities at the State and local levels. Yet, both operate work programs. The Committee believes that operating TANF in conjunction with the One-Stop delivery system could reduce the stigma associated with accessing welfare services and should increase TANF clients' exposure to employers who utilize the One-Stop Career Centers to find new workers. In addition, it will encourage a continuum of services for low-income families that may become unemployed after leaving welfare, or may need additional training to move up the career ladder. Creating a formal connection to the WIA system will ensure TANF clients have access to labor market information and job listings maintained at the One-Stops and should enhance connections to the business community. It also could eliminate some duplication at the State level.

The 21st Century Competitiveness Subcommittee examined the extent to which TANF employment and training services currently are provided through the One-Stop delivery system during a hearing on March 12, 2002. Dr. Sigurd Nilsen, Director of Education, Workforce and Income Security issues for the Government Accountability Office, formerly the General Accounting Office (GAO), testified that State and local efforts to coordinate their TANF and WIA programs increased in 2001. According to a survey conducted by the GAO, 44 States have informal linkages between the two systems, and 28 have formal linkages such as memoranda of understanding. Coordination occurred most often on the operation of work programs, and less frequently on support programs.

John B. O'Reilly Jr., Executive Director of the Southeast Michigan Community Alliance (SEMCA), which is one of 25 Michigan Works agencies, testified before the 21st Century Competitiveness Subcommittee at the hearing with Dr. Nilsen. During the hearing, Mr. O'Reilly provided first-hand evidence of what makes an integrated delivery system successful:

> "All of the workforce services are coordinated at the regional level by the Workforce Development Board. All customers are served in a collaborative system that best utilizes resources and existing community support. Employers have a single point of access to services that are specific to their needs. Employers don't know which government program brought our customers into the system, only that they are referred persons who are prescreened to suit the job order placed with the One-Stop."

Curtis Austin of Workforce Florida described the benefits for job-seekers, including TANF recipients, in the integrated system in Florida. In his testimony he stated, "The workforce one-stop system is no longer the welfare office, the unemployment office or the job training office – but rather the public employment center where all services that support employment, including labor market information, available job listings, relevant training opportunities, work supports, career counseling and assessment to identify and address barriers to employment are provided."

However, real integration may not be possible as long as the programs have different performance standards, reporting requirements, and definitions. The GAO also identified such barriers during their examination of the two systems. Therefore, the Committee has included a requirement that the Secretary of HHS and the Secretary of Labor jointly submit a report to Congress no later than six months after enactment of this legislation to describe changes needed to the two systems to allow greater integration between the welfare and workforce development systems.

<u>Fatherhood</u>

The Committee Print amends Title I of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L. 104-193) to create a new fatherhood program.

The Committee recognizes that fathers make unique and irreplaceable contributions to the lives of children. According to the National Fatherhood Initiative, in an analysis of nearly 100 studies on parent-child relationships, the love of a father was as important as a mother's love in predicting the social, emotional, and cognitive development and functioning of children and young adults. Children with involved, loving fathers are significantly more likely to do well in school, have healthy self-esteem, exhibit empathy, and avoid high-risk behaviors as compared to children who have uninvolved fathers.

Yet too many children do not have good relationships with their fathers. Twenty-four million children live absent their biological father. About 40 percent of children in homes absent a father have not seen their father at all during the past year. Unfortunately, we know that the absence of fathers produces negative outcomes for their children. According to the National Fatherhood Initiative, children who live absent their fathers are, on average, at least two to three times more likely to be poor; use drugs; experience educational, health, emotional and behavioral problems; to be victims of abuse; and engage in criminal behavior than their peers who live with married parents. Therefore, the Committee believes that it is important to reinforce the importance of responsible fatherhood to reduce the rates of father absence.

These fathers often are involved with a child at birth. Preliminary survey data from the Fragile Families and Child Wellbeing Study, which studied unmarried couples with children, suggest that most unwed fathers are highly involved shortly after the child's birth, and may even intend to marry the child's mother. The key is for fathers to stay involved in the lives of their children.

The Committee identifies three purposes for the program. The first of the three purposes is to provide for projects and activities by public entities and nonprofit community entities, including religious organizations, to test promising approaches to accomplishing the following four objectives: (1) promoting responsible, caring, and effective parenting and encouraging positive father involvement, including the positive involvement of non-resident fathers; (2) enhancing the abilities and commitment of unemployed or low-income fathers to provide support for their families and to avoid or leave welfare, including connecting fathers to employment services and the one-stop delivery system created through the Workforce Investment Act of 1998 (WIA).; (3) improving fathers' ability to effectively manage family business affairs; and (4) encouraging and supporting healthy marriages and married fatherhood.

The second purpose is to improve outcomes for children through the activities described in the first purpose, such as increased family income and economic security, improved school performance, better health, improved emotional and behavioral stability and social adjustment, and reduced risk of delinquency, crime, substance abuse, child abuse and neglect, teen sexual activity, and teen suicide.

The third purpose is to evaluate approaches and disseminate findings to encourage replication of effective approaches in accomplishing the objectives.

The Committee Print authorizes the Secretary of HHS to make grants for fiscal years 2006 through 2010 to public and nonprofit community entities, including religious organizations, and to Indian tribes and tribal organizations, for demonstration service projects and activities designed to test the effectiveness of various approaches to accomplish the four objectives.

Entities applying for a full services grant must submit an application to the Secretary. The application must contain: (1) a description of the project and how it will be carried out; (2) information about the applicant's ability to carry out the project; (3) a description of how the applicant will address child abuse and domestic violence, including how the applicant will coordinate with State and local child protective service and domestic violence programs; (4) a commitment to make available to each individual participating in the project education about alcohol, tobacco, and other drugs, and about the health risks associated with abusing such substances, and other behavioral risks; and (5) a description of how the project would coordinate, as appropriate, with State and local entities responsible for TANF, WIA (including the one-stop delivery system), and other social service programs as the Secretary may require. In addition, the application would include an agreement to maintain records, make reports, and cooperate with reviews or audits as required by the Secretary and an agreement to cooperate with the Secretary's evaluation of the project.

The Secretary also may award grants for limited purposes, which must address at least one of the program objectives. An application for a limited purpose grant of less than $25,000 per fiscal year must contain similar but more limited information and descriptions than those required for full service grants as provided above.

In awarding grants, the Secretary must seek to achieve a balance among entities of differing sizes, entities in differing geographic areas, entities in urban and in rural areas, and entities employing differing methods of achieving the four specified objectives. Also, the Secretary may give preference to projects in which a majority of the clients to be served are low-income fathers.

Federal grant funds may be used for up to 80 percent of the annual costs of full-service projects (or up to 90 percent if the entity demonstrates circumstances limiting the entity's ability to secure non-Federal resources), and for up to 100 percent of annual costs for limited-purpose projects. The non-Federal share may be in cash or in kind.

The Secretary also will award grants for fiscal year 2006 through fiscal year 2010 for two multi-city, multi-State fatherhood projects demonstrating approaches to achieving the four specified objectives. One of the projects is required to test the use of married couples to deliver program services. The Print specifies conditions for an entity to be eligible for such grants. The grants may be used for up to 80 percent of the annual costs of the demonstration projects. The non-Federal share may be in cash or in kind. The Committee believes that the program ought to support efforts by experienced fatherhood organizations to develop projects in major cities.

Further, the Secretary will make grants for fiscal year 2006 through 2010 to support economic incentive demonstration projects. An entity eligible for a grant must be a national, nonprofit fatherhood promotion organization that meets certain conditions. The grant application must specify how the grant would be used for a project that will address each of the fatherhood program’s objectives and address employment barriers across programs (such as child support, criminal justice and workforce development programs), using both sanctions and monetary incentives for obtaining employment and earnings subsidies contingent upon work and payment of child support. The projects must direct a majority of its resources to low-income fathers, but does not need to be means-tested. The project will comply with evaluation requirements and coordinate with other specified programs, including TANF and WIA. These demonstration grants can make up no more than 80 percent of the cost of the project, and the non federal share may be cash or in kind.

The Secretary would evaluate the effectiveness of the selected competitive grants for service projects, selected multi-city, multi-State demonstration projects, and the economic incentive demonstration projects from the standpoint of the four specified objectives and other outcomes. The Secretary must publish an implementation evaluation report covering the first 24 months of the activities within 36 months of the initiation of such activities. A final report on the evaluation is to be completed by September 30, 2013. The Committee believes that evaluation is critical in assisting efforts of the Secretary and Congress to determine effectiveness.

The Secretary is also authorized to carry out projects and activities of national significance relating to fatherhood promotion. These projects and activities may include: collection and dissemination of information to interested parties regarding approaches to accomplishing the four specified objectives; development, promotion, and distribution of a media campaign that promotes and encourages involved, committed, and responsible fatherhood; technical assistance in the implementation of local fatherhood promotion programs, and conducting research related to the purposes of the fatherhood program.

The projects and activities assisted must be made available on the same basis to all fathers and expectant fathers able to benefit from such projects and activities, including married and unmarried fathers and custodial and non-custodial fathers, with particular attention to low-income fathers, and to mothers and expectant mothers.

The Committee authorizes $20 million for each of fiscal years 2006 through 2010 to carry out the fatherhood initiatives. Of the amount appropriated, no more than 35 percent shall be available for the costs of multicity, multicounty, or multistate demonstration projects; economic incentive demonstration projects; evaluations; and projects of national significance. At least $5 million would be spent on economic incentive demonstration projects.

<u>Prohibition on Offshoring</u>

The Committee Print prohibits states receiving grant money under TANF from using the grant to contract with a service provider or allow that provider to subcontract any TANF service or function outside of the United States. Further, it prohibits states from awarding a grant that would utilize 1 or more employees outside the United States. Concern was expressed about state grant recipients offshoring call center services. Evidence was offered of at least one state entering into contracts for other federal programs that allowed for the offshoring of call centers which later resulted in that state's legislature passing laws to prevent this action.

Title II— Amendments to the Child Care and Development Block Grant of 1990

Child care is an issue of significant public interest. The dramatic increase in the number of women participating in the labor force, and the number of these women who are the sole or primary financial supporters of their children are the most important factors affecting the demand for child care.

Increasingly, the affect of child care on children also has become a significant public issue. Research in the field of child development demonstrates that low-income children can benefit from child care with an early childhood development, the quality of child focus by narrowing the school readiness gap of low-income children at entry into kindergarten. Therefore care available is important so that all young children are developmentally prepared to enter and succeed in school.

Concerns about the supply, quality and affordability of child care for many low-income families led to a national debate over the nature and extent of the Nation's child care problems and what, if any, Federal intervention would be appropriate. Federal lawmakers recognized the need to address the accessibility and affordability of child care so that parents could participate in the workforce—a necessary precursor to achieve self sufficiency, reduce poverty, and improve child well-being. A stable supply of affordable child care is essential so that parents can work.

In response, Congress created the Child Care and Development Block Grant (CCDBG) in 1990. The CCDBG assists States in their efforts to subsidize the cost of child care for low-income families. In 1996, as part of the Personal Responsibility and Work Opportunities Reconciliation Act (PRWORA), the CCDBG was consolidated with other Federal child care programs and expanded to provide increased Federal funding to serve both low-income working families and families attempting to transition off welfare through work.

The Committee Print, the *Personal Responsibility, Work, and Family Promotion Act of 2005*, continues the main objectives of the Child Care and Development Block Grant Act of 1990 and the PRWORA of 1996, and makes improvements to the current law. The legislation maintains its primary focus to facilitate access to child care services for low-income families and strengthens the Federal commitment to foster quality environments and early learning experiences for young children.

Witnesses before the Subcommittee on 21st Century Competitiveness testified on March 15, 2005 on the growing importance of child care for success of welfare reform. Cassandra Fallin, Executive Director of the Baltimore City Child Care Resource Center told the Subcommittee:

> "Child care is a vital support for low-income working families. In 2003, over 1 million families and 1.75 million children were served by the Child Care and Development Block Grant. Almost 90 percent of the children receiving child care assistance were in care because their parents were working, in school, or in training (78 percent because their parents were working; 12 percent while their parents were in training or school)... Child care provides the stability needed to keep families working. Research has found that former welfare recipients are 82 percent more likely to keep a job after two years if they receive child care assistance."

<u>Program Goals</u>

The Committee Print continues to provide States maximum flexibility in developing child care programs and policies and promotes parental choice so that parents can select the type of child care and setting that they prefer. This legislation amends the existing goals to emphasize that the block grant is intended to serve both low-income working families who receive cash assistance and those who are struggling to maintain independence from the welfare system.

Two new goals also are added to encourage States to improve the quality of child care and to promote cognitive development and school readiness. These goals are consistent with the President's early childhood education initiative, *Good Start, Grow Smart*, designed to address the cognitive and other developmental needs of young children so that they are prepared to enter and succeed in school.

A primary goal of the Child Care and Development Block Grant is to "promote parental choice to empower working parents to make their own decisions on the child care that best suits their family's needs." Child care vouchers provided to parents using CCDBG funds promote informed parental choice. In most cases, States allow eligible parents to select their preferred type of care setting and provider, including faith-based providers. In addition to supporting parent choice, the voucher system supports increased child care quality since competition among providers improves the quality of care for all children in preschool settings.

<u>Funding</u>

The Committee Print provides funding for the discretionary portion of the CCDBG. This legislation authorizes $2.3 billion for fiscal year 2006, $2.5 billion for fiscal year 2007, $2.7 billion for fiscal year 2008, $2.9 billion for fiscal year 2009, and $3.1 billion for fiscal year 2010. Block grant funds authorized by this legislation are just one part of the total block grant funding picture. The discretionary authorization is combined with mandatory funds authorized by the Committee on Ways and Means and State matching funds required to receive a portion of the Federal mandatory money. Together these funding sources are commonly referred to as the Child Care and Development Fund (CCDF).

The Federal Government has made a significant financial commitment to providing access to affordable child care and early education opportunities for low-income families, and assistance to improve the quality of child care and early education. Current funding for child care has reached historic new levels.

Federal child care spending through the CCDF and Temporary Assistance to Needy Families (TANF) has increased 242 percent from $2.6 billion in 1997 to $9.9 billion in 2003. The current authorization is $1 billion, but the fiscal year 2005 appropriation is $2.1 billion. Discretionary funding for the Child Care and Development Block Grant has more than doubled in the last five years to $2.1 billion dollars in fiscal year 2005. Mandatory funding currently is set at $2.7 billion, for a total of $4.8 billion in fiscal year 2005.

In addition to Federal dollars provided through mandatory and discretionary funding, States currently may transfer up to 30 percent of their TANF block grant to the Child Care and Development Block Grant. In fiscal year 2003, States transferred nearly $1.9 billion to the block grant—representing 11 percent of the fiscal year 2003 TANF allotment. The Committee Print would allow States to transfer up to 50% of their TANF block grant into the Child Care and

Development Fund. As more people transition from welfare into employment, States may have an increasing amount of TANF resources available to help low-income families pay for child care.

States also may spend additional TANF money directly on child care services outside of the CCDBG. In fiscal year 2003, HHS reports that States spent approximately 5% ($1.7 billion) of their TANF grant for child care, and $1.77 billion in state TANF and separate state program maintenance of effort (MOE) funds (some of which may also be reported as State CCDF spending).

In total, expenditure data show that in fiscal year 2003, States spent nearly $9.5 billion in Federal and State money from the Child Care and Development Block Grant (this amount includes spending from the TANF transfers to the CCDBG). In addition, States spent over $3 billion on child care within the TANF system. Therefore, in total, over $12 billion was spent on child care through the CCDBG and TANF in fiscal year 2003 (of which $8.9 billion were Federal funds). Furthermore, another federal block grant, the Social Services Block Grant, also may be used by States to provide child care services. In fiscal year 2002, States spent $205 million on child care through this block grant, which is currently funded at $1.7 billion.

In addition to the CCDBG, TANF and Social Services Block Grant, which states may use to support child care for low-income families, other Federal programs provide funds for child care and early childhood development. These include: Head Start (funded at $6.8 billion in fiscal year 2005), the Child and Adult Care Food Program ($2.1 billion), the Individuals with Disabilities Education Act preschool and infant/toddler grants ($826 million), Even Start ($225 million), Early Reading First ($104 million), Early Learning Fund ($36 million) and, for after-school and weekend activities for school age children, the 21st Century Community Learning Centers ($991 million). In total, combined annual funding for child care and early education programs by the Departments of Health and Human Services and Education is estimated to exceed $17.5 billion.

Application and State Plan Requirements

Under current law, each State that applies for a Federal block grant is required to submit a State plan to the Secretary of the Department of Health and Human Services. The State plan is designed to ensure that States are complying with minimal Federal guidelines before receiving their grant. States are asked to certify that parents have unlimited access to their children while in care and the ability to choose their child’s care provider and setting. States also must assure compliance with State licensing, health and safety requirements, address the child care needs of certain population groups, and substantiate that payment rates for child care services are sufficient to ensure equal access to services available to children not eligible for subsidized care.

The Committee Print modifies the State plan in several ways to improve the quality of child care services provided to eligible families. The legislation asks States to collect and disseminate information to both parents of eligible children and child care providers about: the quality and availability of child care services; resources to assist families in obtaining child care; research and best practices on children’s development; and, other programs and services for which families may be eligible, including the food stamp, WIC, Head Start programs, Early Head Start program, programs for infants, toddlers and pre-kindergarten age children available through the Individuals with Disabilities Education Act (IDEA), Medicaid and SCHIP programs.

The Committee Print suggests that States utilize State and local child care resource and referral organizations to collect and disseminate information to families eligible to receive child care assistance and to providers of child care to eligible families, however, States retain the flexibility to use other resources for this purpose. State and local child care resource and referral agencies (CCR&R) often are a community's vital link between parents and child care providers. Most States have in place a comprehensive child care resource and referral network that supports families in finding child care; compiles, analyzes and shares information with parents, providers and communities on the supply, cost, and quality of child care and the availability of child care subsidies; and, supports individuals and programs providing care for children. Child care resource and referral organizations most often are a cost-effective resource because they successfully leverage public dollars with contributions from private sources.

This legislation encourages States to create partnerships with public and private entities to increase the supply and quality of child care services, and to coordinate child care services provided by this Act with other child care and early childhood education programs, such as Head Start; Early Reading First; Even Start; programs for infants, toddlers and pre-kindergarten age children available through the Individuals with Disabilities Education Act (IDEA); and state-sponsored pre-kindergarten.

Beginning in 2007, State plans will contain the outline of the State's strategy to address the quality of child care available to children in that State. States will report on the use of quantifiable, objective measures for evaluating the quality of child care services and its progress in improving child care quality. The Committee does not intend or desire to create any federal standards for quality of child care and intends for States to have complete discretion in fulfilling these provisions.

Finally, States are asked to address factors that can make finding care difficult for some parents. The Committee requests that States report in their State plan how the State is working to meet the child care needs of parents eligible for assistance who have children with special needs, work non-traditional hours, are limited English proficient, or require infant and toddler care.

Limited English proficient (LEP) children account for a growing share of children eligible for child care assistance. According to the National Council of La Raza, 22 percent of children under age 5 who reside in the United States are Hispanic. The Committee recognizes that LEP parents and children have unique needs that must be addressed to ensure equal access to quality programs providing early education and care.

Language barriers are often cited as a main reason that access is impeded to programs and services for which an individual is eligible. An amendment offered by Reps. Fortuño and Hinojosa will ensure that parents, and their young children who are learning English, have equitable access to child care subsidies. The Committee Print requires that information provided to parents shall "be in plain language and, to the extent practicable, be in a language that such parents can understand". The Print defines "limited English proficient" in a manner consistent with the definition included in the *No Child Left Behind Act* and the *School Readiness Act*.

Child Care Quality

The Committee Print places a greater emphasis on the importance of early childhood development and encourages States to improve the quality of child care. The quality of child care is critical to school readiness. Research demonstrates that the experiences of a young child greatly affect all aspects of his or her development, including social and cognitive development.

Knowledge about children's learning has expanded during the past two decades. Research in the neurobiological and behavioral sciences related to young children suggests the importance of the first years of life for healthy brain development. From birth through age five, children rapidly develop the capabilities on which subsequent development builds. In addition to linguistic and cognitive gains, children exhibit dramatic progress in their emotional and social capacities. According to child development expert Dr. T. Berry Brazelton:

> "A child's experiences in the first months and years of life determine whether he or she will enter school eager to learn or not. By school age, family and caregivers have already prepared the child for success or failure. The community has already helped or hindered the family's capacity to nurture the child's development."

Although some variation in development can be expected among all young children, early intervention has the ability to substantially reduce the significant racial, ethnic, and socioeconomic gaps that already exist by the time children begin elementary school. While gaps in school readiness can be attributable to many factors such as economic status, environmental stress, health, parenting, early child care experiences, birth weight, and genetics, researchers conclude that education-based interventions targeted at young children have the greatest impact on improving brain function and behavior. Because educational interventions at an early age have been shown to improve children's social and cognitive skills, the Committee supports States' efforts to enhance the quality and educational focus of child care available to children in all settings.

Under current law, States are required to spend a minimum of four percent of all mandatory, matching and discretionary block grant funds on activities to improve the quality and supply of child care. This print maintains the requirement that States spend a portion of their block grant on activities expected to improve the quality of child care. This is commonly referred to as the "quality set-aside." The quality set-aside provides States important financial assistance to improve the quality of child care provided to families eligible for assistance under this Act.

The Committee Print increases the minimum quality set-aside from four to six percent. On average, States currently spend more (6 to 7 percent of CCDF dollars) than the minimum required by current law to support activities to improve the quality of child care. The Committee Print continues to provide States the flexibility to spend funds beyond the minimum 6 percent, and the Committee strongly supports States that demonstrate a greater commitment to improving the quality of child care. Overall, States reported spending $346 million on improving the quality of child care in fiscal year 2003, which amounts to over a $70 million increase over the amount States spent to improve child care quality in fiscal year 2000.

Some advocacy groups and legislators assert that that the quality set-aside should be significantly higher. It is the Committee's view that the Print appropriately balances funding for both quality and access to child care services. A Federal mandate to increase further the percentage of CCDBG dollars a State must spend on quality activities would significantly reduce the amount of money available to States to provide vouchers to low-income families in need of child care. This legislation does <u>not</u> create any Federal standards for child care; rather it provides guidance to States on how child care quality might be improved.

<u>Permissible Uses for the Quality Set-Aside</u>

Current law provides States broad authority to decide how to spend their quality dollars. The Committee received comments that some States could use these dollars more effectively to enhance child care quality. Research has identified indicators for child care quality. Low child to caregiver ratios, small class sizes, higher levels of caregiver education, low caregiver turnover rates, and adequate compensation each have been linked to better quality early learning environments. Based on this research, the Print stipulates permissible uses for the quality set-aside to help ensure that States spend their quality allocation on activities that have been proven to improve the quality of child care. Beginning in 2007, States are asked to report how these funds are used.

The permissible uses include:

- <u>Programs that provide training, education, and other professional development activities to enhance the skills of the child care workforce, including informal caregivers.</u>
  According to the National Academy of Sciences report, *Neurons to Neighborhoods*, the ways that parents, families and other caregivers relate and respond to a young child directly affect cognitive development. Research suggests that the quality of child care and early education is ultimately dependent on the quality of the relationship between the caregiver and child. Studies indicate that children are more advanced in all realms of development when their parents, teachers or caregivers provide regular verbal and cognitive stimulation, are sensitive and responsive, and give generous amounts of attention and support.

- <u>Activities to enhance early learning and foster school readiness.</u>
  The brain is affected by numerous environmental conditions, including the kind of nourishment, care, surroundings and stimulation an individual receives. The Committee included this permissible use to encourage States to invest in initiatives that will help foster children's literacy, pre-mathematics, and language skills. These skills provide the foundation for school readiness and are easily attainable when young children are exposed to language-rich environments with caregivers who engage them in interactive

activities, promote curiosity and challenge children to develop self-confidence and problem-solving skills.

Children also have needs that must be met before learning can occur, for example the need for ongoing, stable, nurturing relationships, physical protection and safety. The research about children's learning and development provide a context for identifying basic characteristics of a quality child care environment.

- <u>Initiatives to increase the retention and compensation of child care providers.</u>
  High staff turnover rate and low wages are barriers to maintaining or expanding the supply of high quality child care. Many caregivers earn low wages making it difficult to hire and retain well-qualified staff. States are encouraged to use a portion of their block grant quality funds to invest in the quality of the early childhood workforce. States might develop compensation and benefit initiatives that provide salary bonuses or other incentives to remain at a job for a certain length of time, or obtain education or training in early childhood development or related field. Early evidence suggests that these initiatives may slow turnover rates among caregivers.

- <u>Other activities deemed by the States to improve the quality of child care services.</u>
  Any State may spend a portion of their quality set-aside on other activities if the State can demonstrate that the activity contributes to improvement of child care quality. It is the view of this Committee that the quality set-aside should not be used by States to enforce compliance with State licensing requirements and State and local health and safety regulations.

The Committee received recommendations to add other permissible uses to the list established in the Print, but decided to limit the permissible uses to those included in the Print. States maintain the flexibility to decide how to spend their quality dollars, provided that those dollars are spent to improve the quality of child care.

Finally, establishing requirements for quality, such as minimum Federal standards for caregiver credentials or mandated provider accreditation would reduce State flexibility and could jeopardize the integrity of the voucher program by restricting parental choice in selecting child care. For this reason, the Print does not create any Federal standards for child care quality.

<u>Access to Services</u>

The CCDBG assists States in securing affordable care for the greatest number of eligible families who need child care services. Each day in the United States, over 12.5 million children under the age of five are in the care of someone other than their parents. According to a report released by the U.S. Department of Education in November 2004, 50 percent of children are in some form of non-parental child care by the age of 9 months. And, according to the National Research Council, children spend an average of 40 hours per week in child care.

The number of children receiving block grant subsidies has sharply increased at the same time as this historic increase in the number of low-income and single parents working. Between

1996 and 1999, there was an 80 percent increase in the number of children receiving a monthly child care subsidy. Some advocates and lawmakers contend that many potentially eligible children do not receive subsidies due to limited resources. However, the demand for child care services and the number of eligible families in need of subsidies may be overestimated because not all low-income parents need subsidized child care. In fact, not all parents who receive welfare or are transitioning off welfare are working, and many parents make in-home or other informal care arrangements with friends or relatives instead of applying for child care assistance through the block grant. The Committee acknowledges the paucity of reliable data on child care use and availability. For this reason, the Print would require that aggregated statistics on child care supply, demand, and quality be compiled and reported annually to Congress.

Estimates of subsidies needed by children through the Child Care and Development Block Grant and TANF might be reduced further by taking into account the availability of other programs and funding sources serving children, including State-funded pre-kindergarten programs and Head Start. The Congressional Research Services estimates that 44 percent of all 3 and 4 year olds eligible for Head Start are enrolled, and about 62,000 toddlers are served under the Early Head Start program. The Committee strongly encourages States to maximize each public dollar spent on early care and education by coordinating Federal and local funding streams and services available to young children.

The Committee Print eliminates the Federal income limit for eligibility, previously set at 85 percent of the State median income. States must continue to prioritize families based on need and serve both TANF and non-TANF families. Eight-five percent of the State median income may be too high for some States, yet not high enough for others. For example, 85 percent of the State median income for a family of three in Connecticut is $58,920 a year, yet in Mississippi it is $30,156 for a family of the same size.

The Committee received comments that States might interpret the elimination of a Federal eligibility limit as a suggestion that assistance provided through the block grant should be targeted to TANF families only. This is not the intent of the Committee. The Committee Print states clearly that States must use block grant funds to provide child care assistance to both TANF and non-TANF families. The legislation amends the CCDBG goals to clarify the Congressional intent to provide assistance to low-income families, not exclusively those on or transitioning off TANF. States and territories must spend 70 percent of their mandatory child care money to subsidize child care for TANF families, families transitioning off TANF, and families at risk of becoming dependent on public assistance. States also must ensure that "a substantial portion" of the State grant that is not reserved for TANF families and families transitioning off TANF is used to provide assistance to low-income working families not receiving cash assistance.

Finally, the Print requests that States address factors that can make finding child care difficult for some parents. As part of the State plan, States must describe actions within the State, planned or in progress, to meet the child care needs of parents eligible for assistance, particularly those who have children with special needs, work non-traditional hours, or require infant and toddler care.

Gulf Coast Hurricanes

In August 2005, Hurricane Katrina caused catastrophic damage and forced nearly a million individuals to flee the Gulf coast region of the United States. In terms of physical devastation to property and loss of life, Hurricane Katrina was one of the worst natural disasters in the Nation's history. It was followed by Hurricane Rita, which hit the Gulf coast in September 2005. In the aftermath of Hurricanes Katrina and Rita, communities across the country accepted displaced families seeking temporary evacuation or a new permanent residence. Both displaced families and the communities to which they fled, have unique and urgent needs for family support services such as child care.

In response to these needs, language is included in the Committee Print that grants the Secretary limited authority to waive or ease federal requirements for the State administration of the Child Care and Development Block Grant. This measure will assist the efforts of the Department to provide regulatory relief to States affected by the recent Gulf hurricanes. As a result, States and local providers can better assist displaced families in accessing child care and easing burdens on facilities that have accepted these children. Similar language also is included in H.R. 3975, the *Hurricane Regulatory Relief Act* as introduced by Rep. Jindal.

Specifically, the Committee Print authorizes the Secretary to waive or modify certain federal CCDBG requirements through June 30, 2006. The waivers may be used to temporarily suspend income limitations on eligibility to receive services; work requirements applicable to eligibility to receive services; the application of the quality set-aside in states affected by Hurricane Katrina; and any barrier to providing priority services to displaced children provided that enrolled children residing in such state do not lose eligibility as a result.

In addition, the Secretary of HHS has issued guidance regarding ways in which State child care administrators may use their block grant funds to address needs resulting from the Gulf hurricanes. States may amend their state CCDBG plans to redefine eligibility conditions or broaden priority rules to be more inclusive of displaced families.

Title III— State and Local Flexibility

States have used the flexibility of TANF to transform their public assistance programs into innovative and comprehensive systems. However, welfare reform really began at the State level as States obtained waivers from the Federal government. In addition, the nation’s comprehensive workforce development system created through WIA was preceded by waivers that permitted every State to establish One-Stop Career Centers.

Building upon this history of successful implementation of waivers, the Print permits States or local entities to coordinate certain public assistance and workforce development programs. Offering States and localities the opportunity to innovate and experiment will strengthen social services and make them more efficient.

Programs to aid low-income and working families are not as effective as they could be because of the differences in administrative practices and program rules that govern them. The

Committee Print will allow the next generation of innovation at the State and local level, permitting what former Secretary of the Department of Health and Human Services Tommy Thompson did as Governor of Wisconsin, and other Governors have done, but for a broader array of programs.

The authority granted under this Title will allow States and local entities to seek program waivers from the Federal agency responsible for administering the program to develop comprehensive strategies to support working individuals and families, help families escape welfare dependency, promote child well-being, or help build stronger families. The heads of the State or sub-State entities that administer the qualified programs to be included in a demonstration project will submit an application to the Secretaries that administer the programs at the federal level. A State cannot seek to waive activities administered locally unless the local administering entities join in the applications. The Committee intends that this provision gives local administering entities a veto over State initiatives that would impact their programs.

Programs for which waivers may be sought include the Workforce Investment Act (excluding Job Corps), the Job Opportunities for Low-Income Individuals grants, activities funded under the Wagner-Peyser Act, activities funded under the Adult Education and Family Literacy Act, activities funded under the Child Care and Development Block Grant, TANF, housing programs, and food stamps. The entities applying to conduct the demonstration project will need to describe how the purposes of the underlying programs to be coordinated will be achieved, the populations to be served, a description of how the project is to improve or enhance achievement of the purposes of the programs, and a description of performance objectives and outcomes for the proposed demonstration project. They also will be required to evaluate the project.

A demonstration project must receive approval of each relevant Secretary in order to move forward, and the Secretaries only may approve a project if the proposed project is likely to improve the quality or effectiveness of the programs involved. The waiver terms and conditions are subject to cost neutrality requirements.

Secretaries will not be permitted to waive certain critical protections, including the purposes and goals of the underlying programs, civil rights and prohibitions of discrimination, labor market standards under the Fair Labor Standards Act, environmental protections, health and safety provisions, and matters of maintenance of effort. The Secretaries also cannot waive any requirement that a State pass through to a local entity all or part of an amount paid to the State. In addition, the Secretaries cannot waive any provision of WIA if the waiver would violate section 189(i)(4)(A)(i) of WIA, which will ensure the allocation of funds to local workforce investment areas and the establishment and functions of local areas and local boards will continue as specified in current law.

Each federal department that has approved waivers will be required to report annually on the number and scope of waivers, the success of each project in achieving the goals of the demonstration project, and any recommendations to Congress for the modification of current programs based on findings from the States' evaluations.

Title IV – Effective Date

The Committee Print makes changes effective on the date of enactment, unless the Secretary of Health and Human Services determines that State legislation is needed to change a State plan under Part A of the Social Security Act. In such a case, the effective dates shall be after the close of the first regular session of the State legislature that begins after enactment.

SECTION-BY-SECTION ANALYSIS

Section 2000. Lists of the Table of Contents for the title.

Subtitle A – Welfare Reform

Part 1 – Short Title; References

Section 2001. Establishes the short title of the subtitle to be "Personal Responsibility and Family Protection Act of 2005."

Section 2002. Explanation of References.

Part 2 – TANF

Section 2011. Universal engagement and family self-sufficiency plan requirements.

Amends Section 402(a)(1)(A) of the Social Security Act to modify State plan requirements to ensure States require parents or caretakers to engage in work and self-sufficiency activities, in accordance with family self-sufficiency plans; amends Section 408(b) of the Act to require States to establish family self-sufficiency plans and require States to monitor and review the participation of work eligible members of the family; amends Section 409(a)(3) of the Act to create a penalty against States for failure to establish such plans.

Section 2012. Work participation requirements.

Amends Section 407 of the Act to increase States' rates of required work participation from 50 percent in 2006 to 70 percent in 2010, revise the caseload reduction credit, establish minimum hours of countable work and other activities, define work activities, clarify penalties against individuals for failure to engage in work activities, and make conforming amendments.

Section 2013. Work-related performance improvement.

Amends Section 402(a)(1) of the Act to modify State plan requirements to address work-related performance objectives and strategies to address certain issues; amends Section 411 of the Act to require a report on performance goals; amends Section 413 of the Act to require the development of performance measures.

Section 2014. Report on coordination.

Requires the Secretary of Health and Human Services and the Secretary of Labor to jointly submit a report to Congress on program simplifications needed to allow greater integration between the welfare and workforce development systems.

Section 2015. Fatherhood program.

Amends Title I of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 to recognize the need to promote responsible fatherhood; allow the Secretary to make grants for fiscal years 2006 through 2010 to public and nonprofit community entities for demonstration service projects and activities designed to test the effectiveness of various approaches to accomplish the objectives of the section; allow the Secretary to make grants for fiscal years 2006 through 2010 for two multicity, multistate projects demonstrating approaches to achieve the objectives of the section and for economic incentive demonstration projects; direct the Secretary to evaluate the effectiveness of the funded projects under this section from the standpoint of specified purposes; authorize the Secretary to carry out projects of national significance relating to fatherhood promotion; and to authorize appropriations of $20,000,000 for each of fiscal years 2006 through 2010 to carry out the provisions of this section.

Section 2016. State option to make TANF programs mandatory partners with one-stop employment training centers.

Requires TANF programs to be mandatory partners with One-Stop Employment Training Centers created under the Workforce Investment Act of 1998.

Section 2017. Sense of the Congress.

Specifies that it is the sense of the Congress that a welfare-to-work program should include a mentoring program.

Section 2018. Prohibition on Offshoring.

Amends Section 408(a) by adding language to prohibit a State to which a grant is made under section 403 from using TANF funds for offshoring.

Part 3 – Child Care

Section 2021. Short title.

Specifies that the title of this part may be cited as the “Caring for Children Act of 2005.”

Section 2022. Goals.

Amends Section 658A(b) of the Child Care and Development Block Grant Act of 1990 to assist States to provide child care to low-income families, to encourage States to improve the quality of child care, and to promote school readiness.

Section 2023. Authorization of Appropriations.

Amends Section 658B of the Child Care and Development Block Grant Act of 1990 to authorize appropriations through 2010.

Section 2024. Application and plan.

Amends Section 658E(c)(2) of the Child Care and Development Block Grant Act of 1990 to modify and add State plan requirements in the areas of consumer and provider education information, coordination, public-private partnerships, child care service quality, and access for certain populations; requires States to develop a strategy to address the quality of child care services and report on that strategy.

Section 2025. Activities to improve the quality of child care.

Amends Section 658G of the Child Care and Development Block Grant Act of 1990 to establish permissible uses of funds set-aside for quality activities by specifying that no less than six percent of funds a State receives shall be used for activities that provide training and professional development of the child care workforce, enhance early learning for young children, increase the retention and compensation of child care providers, or are deemed by the State to improve the quality of child care services.

Section 2026. Reports and Audits.

Amends Section 658K(a)(1)(B)(iii) of the Child Care and Development Block Grant Act of 1990 by inserting "ethnicity, primary language," after race.

Section 2027. Report by Secretary.

Requires the Secretary to report to Congress no later than October 1, 2007 and biennially thereafter.

Section 2028. Definitions.

Amends Section 658P(4)(B) of the Child Care and Development Block Grant Act of 1990 to provide States more flexibility in establishing who is an eligible child. This section also is amended by redesignating paragraph (9) as paragraph (10) and inserting after paragraph (8) a definition of Limited English Proficiency with respect to an individual.

Section 2029. Waiver Authority to Expand the Availability of Services Under Child Care and Development Block Grant Act of 1990.

Specifies that for a period up to June 30, 2006, and to an extent which the Secretary of Health and Human Services considers to be appropriate, the Secretary may waive or modify for an affected State, and any State serving significant numbers of individuals adversely affected by a Gulf hurricane disaster, certain provisions of the Child Care and Development Block Grant of 1990.

Part 4 – State and Local Flexibility

Section 2041. Program Coordination Demonstration Projects.

Authorizes State demonstration projects to coordinate two or more specified programs in order to support working individuals and families, help families escape welfare dependency, promote child well-being, or help build stronger families, subject to specified conditions and protections.

Part 5 – Effective Date

Section 2051. Effective Date.

Establishes the effective date of the amendments made by this subtitle.

APPLICATION OF LAW TO THE LEGISLATIVE BRANCH

Section 102(b)(3) of Public Law 104-1 requires a description of the application of this bill to the legislative branch. The Committee Print amends and improves the mandatory work requirements and other work-related provisions of the Temporary Assistance for Needy Families (TANF) block grant and reauthorizes the Child Care and Development Block Grant. The bill does not prevent legislative branch employees from receiving services provided under this legislation.

UNFUNDED MANDATE STATEMENT

Section 423 of the Congressional Budget and Impoundment Control Act (as amended by Section 101(a)(2) of the Unfunded Mandates Reform Act, P.L. 104-4) requires a statement of whether the provisions of the reported bill include unfunded mandates. The Committee Print reauthorizes spending programs under amends the Temporary Assistance for Needy Families (TANF) block grant and the Child Care and Development Block Grant. As such, the bill does not contain any unfunded mandates.

ROLLCALL VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee Report to include for each record vote on a motion to report the measure or matter and on any amendments offered to the measure or matter the total number of votes for and against and the names of the Members voting for and against.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

In accordance with clause (3)(c) of House Rule XIII, the goal of the Committee Print is to improve the mandatory work requirements and other work-related provisions of the Temporary Assistance for Needy Families (TANF) block grant, improve the Child Care and Development Block Grant, and increase flexibility for certain federal welfare programs. The Committee expects the Departments of Health and Human Services, Education, and Labor to comply with these provisions and implement the changes to the law in accordance with these stated goals.

CONSTITUTIONAL AUTHORITY STATEMENT

Under clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee must include a statement citing the specific powers granted to Congress in the Constitution to enact the law proposed by the Committee Print. The Committee believes that the amendments, made by this bill to the Social Security Act, are within Congress' authority under Article I, section 8, clause 1 of the Constitution.

STATEMENT OF OVERSIGHT FINDINGS AND RECOMMENDATIONS OF THE COMMITTEE

In compliance with clause 3(c)(1) of rule XIII and clause (2)(b)(1) of rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the body of this report.

NEW BUDGET AUTHORITY AND CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

With respect to the requirements of clause 3(c)(2) of rule XIII of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974 and with respect to requirements of 3(c)(3) of rule XIII of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee will receive a cost estimate for the Committee Print from the Director of the Congressional Budget Office, which will be transmitted.

COMMITTEE ESTIMATE

Clauses 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs that would be incurred in carrying out the Committee Print. However, clause 3(d)(3)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italic and existing law in which no change is proposed is shown in roman):